

1

THE HOUSE COMMITTEE ON ELECTIONS

81ST LEGISLATURE

APRIL 6, 2009



Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005671

TX_00031029

USA_00020553

CHAIRMAN TODD SMITH: The House Committee
on Elections is now called to order.

Will the clerk please call the roll.

THE CLERK: Representative Smith?

REPRESENTATIVE SMITH: Here.

THE CLERK: Representative Pena?

REPRESENTATIVE PENA: Here.

THE CLERK: Representative Allen?

REPRESENTATIVE ALLEN: Here.

THE CLERK: Representative Bohac?

REPRESENTATIVE BOHAC: Here.

THE CLERK: Representative Bonner?

(No Response.)

THE CLERK: Representative Harper-Brown?

(No Response.)

THE CLERK: Representative Helfin?

(No Response.)

THE CLERK: Representative Veasey?

REPRESENTATIVE VEASEY: Here.

CHAIRMAN TODD SMITH: Quorum being
present, welcome, everybody here today that has come
to hear a discussion on an issue that has been of
great concern for our state and other states, as well.

I want to especially welcome 13
individuals who have agreed to come tonight and



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005672

TX_00031030

USA_00020554

1 provide their testimony and expertise from varying
2 perspectives on the issue of Enhanced Voter
3 Identification. Many of you have come from quite a
4 long way. We appreciate you taking the time to be
5 with us.

6 We're going to lay out the Senate Bill
7 here in a moment, and at that point I'm going to hand
8 the gavel to Vice-Chairman Pena for purposes of laying
9 that piece of legislation out.

10 But before I do that, I'd like to make an
11 opening statement, and for purposes primarily of the
12 experts that are here with us, I want to give you some
13 sense of the kind of questions that I'm interested in
14 you answering.

15 So that to the extent that you have
16 expertise in answering any of the questions that I
17 have, you might be inclined to focus on those
18 questions. But I also want to give any other member
19 of the committee an opportunity to make an opening
20 comment before we go to the witnesses.

21 It's my intent, we're starting at about
22 1:30. And just so that everybody understands how we
23 are we're going to proceed, once we lay the bill out
24 and begin recognizing expert witnesses, it is my
25 intent, we have witnesses representing both



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005673

TX_00031031

USA_00020555

1 perspectives. Not that there are only two
2 perspectives, but certainly a diverse group of
3 witnesses to provide us with every conceivable
4 perspective on this issue.

5 And it is my intent, as much as possible,
6 to recognize witnesses that are for, followed by
7 witnesses that are against, followed by witnesses that
8 are for, followed by witnesses that are against until
9 we accommodate all of the experts who are with us
10 today.

11 Otherwise we wouldn't limit the length of
12 testimony, but because we're going to be doing this
13 again with the members of the public tomorrow, and
14 because that has the potential to last well into the
15 night. We have a number a variety of ages on our
16 committee, and I don't want to kill anybody.

17 So I am determined that we get out of here
18 tonight by midnight so that people can have a
19 reasonable amount of sleep before we accommodate the
20 public tomorrow and take their testimony until they
21 run out of steam.

22 UNIDENTIFIED SPEAKER: Do we have to go
23 till midnight?

24 CHAIRMAN TODD SMITH: No. We don't have
25 to go till midnight, and I'm about to tell you how I



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005674

TX_00031032

USA_00020556

1 plan to accommodate the witnesses.

2 It's my intent and there will be a little
3 device over there, Steven. We've got a device, and
4 what this is going to do, I'm going to allow every
5 witness to give a ten-minute, uninterrupted comment so
6 that you can say whatever you wish to the committee
7 and whatever is on your mind and be uninterrupted in
8 doing so.

9 I believe that is set to go off so that
10 you have a 1 and 1/2-minute warning. When you see a
11 yellow light, that means you've got a minute and a
12 half before the ten minutes are up. And at the end of
13 the ten minutes, Steven is going to let me know that
14 the ten minutes are up because I can't see the light.

15 At which point we will begin a period of
16 up to 30 minutes' of questions on the part of the
17 panel. And then, obviously, this is, unusual, members
18 in that we're not usually limited in the amount of
19 time that we have to ask the questions that are on our
20 mind.

21 And in light of the fact that today we're
22 operating in a different manner, I would just ask that
23 all of you be respectful that there are nine members
24 on the committee, and I presume everybody will not
25 have an opportunity in asking a question or two.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005675

TX_00031033

USA_00020557

1 I'm going to do my best in recognizing,
2 members to make sure questions from both sides of the
3 political aisle are given equal opportunity. That is
4 generally, how we will proceed.

5 Yes, Representative Anchia.

6 REPRESENTATIVE ANCHIA: I have a couple of
7 questions, Mr. Chairman.

8 Have you given some thought to the order
9 that we're going to take witness in? Is it going to
10 be, namely, people who have flights? Is that going to
11 be the procedure?

12 CHAIRMAN TODD SMITH: Again, anybody who
13 has flight arrangements that are peculiar or require
14 us to put you toward the front of the agenda, please
15 make my staff aware of them and we will do our best to
16 accommodate that within the constraints of wanting to
17 put witnesses both for and against this piece of
18 legislation.

19 I'll be glad to accommodate those
20 witnesses who have time deadlines within the
21 constraints of recognizing both sides both early in
22 testimony and as we proceed through the evening. I
23 think there's even on the most, what is received to be
24 the most decisive of issues, I think there are more
25 surprisingly enough that unites us in principal than



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_005676

TX_00031034

USA_00020558

1 divides us.

2 I think I can speak with certainty that
3 every member of this committee agrees that we should
4 do all that we reasonably can do to prevent all types
5 of voter fraud. I think everybody on this committee
6 believes that we should do all we that we can do to
7 insure that any legal voter may vote.

8 I think everybody on this committee agrees
9 that it is equally unacceptable when a legal vote does
10 not count. Whether that vote occurs due to an
11 unreasonable barrier to voting or due to an offsetting
12 fraudulent vote.

13 And what we're looking for here tonight
14 from the experts that have been asked to testify for
15 ideas on how we might enhance the security of our
16 elections while simultaneously expanding access to the
17 polls.

18 There are a number of questions that I
19 specifically am interested in hearing from the expert
20 witnesses on, and again my co-panelists may have other
21 questions they would like to emphasize for you to
22 address, as well.

23 No. One on my list is the extent of the
24 evidence of voter impersonation in Texas or
25 nationally.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005677

TX_00031035

USA_00020559

1 No. Two: Is such evidence the tip of the
2 fraud iceberg or is it the entire iceberg?

3 Three: If most voter fraud occurs through
4 absentee ballots, what could or should be done about
5 that?

6 Four: Any reliable evidence that the
7 Texas Senate version, and I'm going to lay that out in
8 a minute and take a moment to read so that all of our
9 witnesses are familiar to the extent that you're not,
10 and all our panelists and my colleagues are familiar
11 with the details of that legislation.

12 But I'm interested in any reliable
13 evidence that the Texas Senate version of Voter ID
14 would either enhance or suppress voter turnouts.

15 Five: To what extent would you expect the
16 Texas Senate version, again, of Voter ID to defer
17 voter fraud.

18 Six: What is the best way to handle
19 provisional ballots cast due to an inadequate ID? How
20 might we best ensure that a legal voter who casts a
21 provisional ballot will have their vote counted?

22 Seven: And this will be a fairly narrow
23 group of people, I presume, that would be able to
24 address this, but I'm interested in how many voters
25 can I register per million dollars spent?



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_005678

TX_00031036

USA_00020560

Those are the seven questions that I mark out that I am particularly interested in hearing from you about. And at this time I will recognize anyone on the panel who wishes to be recognized for purposes of making any opening comments.

At this time the chair shows representative Linda Harper-Brown to be present, and I recognize Representative Anchia to make opening comments.

REPRESENTATIVE ANCHIA: Thank you, Mr. Chairman and members of the committee and members of the public and the expert witnesses that are here today. We appreciate everyone's participation in this very important set of hearings.

We're going to be meeting today with expert testimony and then tomorrow we will have the public experts join us for additional hearings.

And I want to say it is my view that this is an important exercise and an important part of democracy. And I want to thank you everyone, especially those who came in from out of town who are not from Texas and are willing to come here to help inform us as we develop our public policy.

The focus of this hearing today will be the Fraser Bill, the bill that was passed on a



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005679

TX_00031037

USA_00020561

1 partisan basis out of the Senate and is coming out of
2 the House.

3 And it is interesting to note that it is a
4 Voter Identification bill that seeks to remedy the
5 alleged problem or type of voter fraud in Texas that
6 would be voter impersonation.

7 I've been on this committee for three
8 sessions now. In 2005 we took testimony on this. In
9 2006 we studied it during the interim. 2007, during
10 my second session I was on the committee. 2008, we
11 studied it during the interim. And now we're going to
12 take testimony in 2009.

13 And to date, even with an ongoing
14 investigation into voter fraud, generally, by the
15 Attorney General of the State of Texas, we have found
16 no documented cases of in-person, at the polls, voter
17 impersonation.

18 So I ask frequently: What is this bill
19 about? And some might argue it is to deal with
20 potential for fraud. But I also note that what we
21 have seen in the studies that we've undertaken is that
22 the fraud that does exist on behalf of voters have
23 been on mail-in ballots, which are wholly exempted
24 from the bills that we heard in 2005, 2007 and now
25 that we're hearing in 2009.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005680

TX_00031038

USA_00020562

1 And what I really would like this
2 committee to focus on and have members of the public
3 think about is the big beast in the room, ad that is
4 the low participation rates in Texas. Texas is
5 consistently in the lowest quintile of participation
6 in the country. This has not changed.

7 During the last few election cycles it is
8 clear that we have structural impediments to voting in
9 this state because people are not participating. Even
10 with the very highly contested Presidential Election
11 during the last election cycle, it was barely over
12 half of our registered voters statewide that
13 participated in the election.

14 And I don't think that's good for Texas.
15 I don't think it's good for our democracy. And if the
16 members of the committee want to engage on that issue,
17 what are we doing wrong now? How can we increase
18 security in the system, but at the same time in the
19 spirit of Carter-Ford and then later Carter-Baker,
20 have additional access to the franchise so that we are
21 no longer last or next-to-last or near last in the
22 country in terms of voter participation.

23 And if the members of the committee and
24 members of the public and members of the expert
25 witness want to work on this, then I think we can have



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005681

TX_00031039

USA_00020563

1 a very big discussion.

2 But that's the big beast in the room: Is
3 Texas satisfied with the lack of participation in the
4 state and being either last or near last in voter
5 participation and turn-out year after year after year
6 and election cycle after election cycle after election
7 cycle?

8 So members of the committee, I offer to
9 you my skills or lack thereof as a legislator in
10 trying to come up with a system that increases access
11 to the franchise, and at the same time, provides
12 greater security.

13 Because I worry that the outcome of the
14 Fraser Bill, if passed by the House, who have negative
15 effects on access to that franchise and would
16 disenfranchise hundreds of thousands of Texans, and I
17 think that's a bad result.

18 So I look forward to working with all of
19 you in achieving a good result.

20 And may I say to the audience and to the
21 members of the media that I'm extremely appreciative
22 of the Chairman's approach to these hearings. He has
23 been certainly a good listener and a gentleman as part
24 of this process, and I thank you, and I appreciate
25 your being inclusive as part of this process.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005682

TX_00031040

USA_00020564

1 I've had for two sessions and had voter
2 suppression bills crammed down our throat, and I think
3 if we are willing to be bipartisan, I think we can get
4 something done that all Texans can be proud of.

5 CHAIRMAN TODD SMITH: Thank you,
6 Representative Anchia.

7 Representative Brown.

8 REPRESENTATIVE BROWN: It won't take me
9 long, Mr. Chairman.

10 I just want to also welcome those who have
11 come here to help us by providing their expert
12 testimony on both sides of the issue.

13 And rather than taking your time, I will
14 not argue my case at this point. I think we will have
15 plenty of time to do that later.

16 I just want to quote the Senator who
17 passed this in the Senate. I think that he summed it
18 up so beautifully when he said, what we're here about,
19 we want to make it easy to vote but hard to cheat and
20 that's all we're trying to do. Very easy to vote but
21 hard to cheat. Thank you.

22 CHAIRMAN TODD SMITH: Any other member who
23 wishes to make any opening comments before we lay out
24 this bill and begin expert testimony?

25 Sure. Representative Veasey.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005683

TX_00031041

USA_00020565

1 REPRESENTATIVE VEASEY: Mr. Chairman,
2 thank you very much for letting me sit in. I'm not on
3 the committee but this is an issue that is near and
4 dear to me.

5 I think it's sad that just not too long
6 ago Dr. King and the civil rights marchers of the
7 1960s and before that gave their lives, marched,
8 threatened and had barriers put in front of them. And
9 it seems to me that this is what this bill is really
10 all about.

11 I think my good friend from Dallas,
12 Representative Anchia, pointed out so eloquently, that
13 ever since the beginning of our freshman year we've
14 been debating this bill. Not once has there been any
15 shred of voter impersonation that has been brought
16 before the House. Not once.

17 And I've had a member, a very conservative
18 member, come up to me on the House Floor, and say,
19 "Mark, this is not going to hurt you. Why are you
20 concerned about this? This is only going to hurt
21 white democrats."

22 And I understand the point of the bill,
23 that you can shave enough of the minority vote, the
24 black and brown vote, because this is a racial issue.

25 Make no mistake about it. Don't go home



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005684

TX_00031042

USA_00020566

1 tonight thinking that this is a about voter
2 impersonation or it's about Voter ID. It's about
3 skimming enough minorities, people that have a hard
4 time beeping able to access documents. People that
5 have a hard time being able to exercise their right to
6 vote. People that don't have access to
7 transportation, like many of us are blessed to have.

8 This is about skimming enough votes so
9 some people can't get elected. And we've had members
10 in this body that were elected or narrowly defeated by
11 just a few votes. We have members that are here
12 today. And it is inherently unfair.

13 I mean, I've looked at this bill. I mean,
14 I go into everything with an open mind. But I have
15 seen nothing after the three years, after three
16 sessions that we've been working on this, no one's
17 presented anything to show that there's voter
18 impersonation going on at polls.

19 And so I think with that, I understand
20 that people feel passionate about this on both sides
21 of the issue. But I think in order to be honest with
22 yourself and sleep at night, that you have to say and
23 ask yourself the question: Is this right, despite the
24 fact that no one has proved that anybody is doing
25 anything wrong? Is it right?



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005685

TX_00031043

USA_00020567

1 Can you live with your conscious knowing
2 that not just -- and I know Representative Anchia did
3 a good job of just saying that it's Texans that would
4 be disenfranchised, but a lot of the Texans, let's be
5 honest, are going to be black and brown and poor
6 folks.

7 Can you really sleep with yourself at
8 night knowing that if this bill passed, that most of
9 the people that would be denied the right to vote are
10 going to be black, brown and poor?

11 Can you live with yourself knowing that
12 most of the people that would be denied the right to
13 vote are the same people, and they look like the same
14 people 30, 40 years ago, with Dr. King that were
15 denied the right to vote?

16 It's, basically, the same group of people
17 that have barriers put in front of them but it's just
18 a different time and a different generation.

19 And one of the things that I do like about
20 the conservative movement is that they say we should
21 never pass bills and that we should never pass laws or
22 make government interfere in people's lives when
23 there's no need for a law.

24 That you should only pass laws when there
25 are just these overwhelming instances to where



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005686

TX_00031044

USA_00020568

1 government needs to take action to get involved in
2 people's lives.

3 And so now you have conservatives that are
4 pushing this bill, that are looking forward to this
5 bill, and nothing has been presented to them to show
6 that government should add this extra barrier, should
7 put this extra burden on here for minorities to be
8 able to vote.

9 We're just doing it just because we want
10 to see what's going to happen and see if enough votes
11 can be skimmed in order to make it a difference in a
12 tight race.

13 And to the person that said to me: This
14 is not going to hurt you because you're in a safe,
15 black district -- well, guess what? Maybe like
16 Barrack Obama, maybe I'll want to do something else
17 one day. Maybe I'll want to run in a district to
18 where it will be a close race and I can't rely just on
19 all black votes.

20 Maybe the handful of black voters in our
21 districts that will be denied the right to vote, even
22 though I'm still going to win.

23 But that person that moves from apartment
24 to apartment, that moves from their grandparents'
25 house to a different apartment -- maybe those handful



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005687

TX_00031045

USA_00020569

1 of people in our district, even though I'm still going
2 to win -- I think it's still incumbent on me to look
3 out for their interests.

4 And that's why I'm up here today. And,
5 Mr. Chairman, I thank you for allowing me to sit in on
6 the committee.

7 CHAIRMAN TODD SMITH: Thank you,
8 Representative Veasey.

9 Anybody else here that wishes to make any
10 opening comments?

11 I think we've heard in these opening
12 comments people's sincere concerns about the concept
13 and notion on the one hand of voter fraud, and on the
14 other hand about voter suppression.

15 I think they're all sincere concerns, and
16 what this hearing, I hope, is going to be about is to
17 lay out before the entire committee so that there is a
18 deep understanding on everybody's part about the
19 extent to which the evidence supports those concerns.

20 I want to know everything there is to know
21 about the state of the evidence that would suggest
22 that a change in policy in the State of Texas from
23 requiring everyone to have some form of
24 identification, either a photo ID or non-photo ID, to
25 a policy that simply says: If you do not have a photo



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005688

TX_00031046

USA_00020570

1 ID, instead of providing one form of photo ID, you
2 provide two forms of photo ID.

3 I'm very interested in hearing what the
4 actual evidence is that that change would have a
5 material impact on any legal voter's ability to vote.

6 And we are also interested in looking
7 fully and completely at the evidence of fraud and at
8 the extent to which it occurs and what we can do about
9 it.

10 We are going to focus on both of those
11 goals. And it's my intent not to make any
12 presumptions at all about what the evidence will show
13 us but to listen to the best experts in the field and
14 then make reasonable and rational conclusions based
15 upon that evidence at the end of the day.

16 Representative Anchia.

17 REPRESENTATIVE ANCHIA: Just a question,
18 Mr. Chairman: How are we going to handle resource
19 witnesses? Which ones have we invited and which ones
20 are available to testify? For example: Attorney
21 General? Secretary of State? DPS?

22 CHAIRMAN TODD SMITH: I think they're all
23 here, and it was my expectation that you would want to
24 hear from all of them.

25 And so, roughly, I don't know that I



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005689

TX_00031047

USA_00020571

1 calculated for the length of the opening statements,
2 but it was my intent to roughly finish the expert
3 testimony around 11:00. Recognizing that things don't
4 always go like you want them to.

5 I figured that by the time we heard from
6 the resource witnesses, that we would be able to get
7 out of hear by midnight.

8 REPRESENTATIVE ANCHIA: Would it be
9 appropriate, just as to the state of the law, to have
10 them come up just intermittently and briefly to answer
11 a specific question that we might not be clear on?

12 CHAIRMAN TODD SMITH: Absolutely. My
13 preference would be if you would, that that occur
14 outside or just after the 40 minutes. Just make note
15 of your questions of those witnesses.

16 And before we bring the next witness up,
17 we will have the opportunity to bring the resource
18 witnesses up.

19 REPRESENTATIVE ANCHIA: Thank you,
20 Mr. Chairman.

21 CHAIRMAN TODD SMITH: Okay. All right.

22 At this time, the chair will hand the
23 gavel to vice chair Pena.

24 VICE-CHAIRMAN PENA: The chair now lays
25 out SB 362 by Fraser, and calls on representative



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005690

TX_00031048

USA_00020572

1 Smith to explain the bill.

2 CHAIRMAN TODD SMITH: Okay. I want to
3 take a few minutes, members and testifiers, to explain
4 this bill in case there's anyone out there, either
5 here or there, that has not had the opportunity to
6 fully understand.

7 This is not the Indiana law. I know we've
8 got people here from Indiana, but we're interested in
9 hearing from everybody, again, about the difference
10 between this bill and our current law, and what the
11 evidence would suggest the impact of that would be,
12 both on the side of the deterring fraud and on the
13 side of discouraging any legal voter.

14 Senate Bill 362. Senate Bill amends the
15 Election Code to require the voter registrar of each
16 county to provide notice of the voting requirements
17 for voting prescribed by provisions relating to the
18 acceptance of a voter for voting and a detailed
19 description of those requirements with each Voter
20 Registration Certificate or Renewal Registration
21 Certificate issued.

22 The bill requires the Secretary of States
23 to prescribe the wording of the notice to be provided
24 on the certificate. The bill makes these provisions
25 effective September 1, 2009. So anybody who registers



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005691

TX_00031049

USA_00020573

1 to vote or renews their registration would receive by
2 mail this information notifying them of the changes in
3 the law.

4 Senate Bill 362 requires the Secretary of
5 State and the Voter Registrar of each county that
6 maintains a website to provide notice of the
7 certification requirements for voting on each entity's
8 respective website and requires the Secretary of State
9 to prescribe the wording of that notice.

10 The bill requires the Secretary of State,
11 in cooperation with the voter reporting organizations
12 as determined by the Secretary of State and with each
13 party who's nominated for governor or in most recent
14 general election receive 20 percent or more in the
15 total number of votes, which would be Republicans and
16 Democrats received by all candidates on Governor on
17 elections to establish a statewide effort and educate
18 voters regarding the identification requirements for
19 voting.

20 The bill also authorizes the Secretary of
21 State to use any available funds, including federal
22 funds, to implement these provisions. The bill makes
23 these provisions effective September 1, 2009.

24 Senate Bill 362 requires the training
25 standards for election judges adopted by the Secretary



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005692

TX_00031050

USA_00020574

1 of State to include provisions on the acceptance and
2 handling of the identification presented by a voter to
3 an election officer in accordance with the regular
4 procedure of accepting a voter and requires each
5 election clerk to complete that part of the training
6 program. The bill makes these provisions effective
7 September 1, 2009.

8 Senate Bill 362 requires the presiding
9 judge of an election precinct to post notice with a
10 list of the acceptable forms of photographic and
11 non-photographic identification in a prominent place
12 on the outside of each polling location, and requires
13 that information to be printed using a font that is,
14 at least, 24 points.

15 Senate Bill 362 requires a voter on
16 offering to vote to present to an election officer at
17 the polling place either one acceptable form of photo
18 identification or two acceptable forms of
19 non-photographic identification, rather than the
20 voter's Voter Registration Certificates.

21 It includes, just to be clear -- the Voter
22 Registration Certificates is one of the two forms of
23 forms that is acceptable. So most people vote already
24 with photo identification. The minority of people
25 currently who simply lay down a Voter Registration



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005693

TX_00031051

USA_00020575

1 Card.

2 The only change in this bill from current
3 law is that those people, in addition to laying the
4 Voter Registration Card on the table, would also have
5 to supplement back that Voter Registration Card, back
6 that up with an additional document on the list of
7 non-photo identification that is available, such as an
8 envelope from a governmental agency.

9 Any of those items, if not all of them,
10 are already on the list of non-photographic
11 identification that is acceptable at the polls.

12 The bill makes conforming changes to
13 provisions relating to a voter's statement of
14 residence. A voter with the correct certificate who
15 is not on the precinct list of registered voters, a
16 voter who is not on the certificate who is on not the
17 precinct list of registered voters and the regular
18 procedures for accepting voters.

19 Senate Bill 362 specifies that the
20 following documentation is an acceptable form of
21 photographic identification for voting: A driver's
22 license or personal identification card issued to the
23 person by the Department of Public Safety that is not
24 expired or that expired no earlier than two years
25 before the date of presentation.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005694

TX_00031052

USA_00020576

1 The United States Military Identification
2 Card that contains the person's photograph.

3 A United States Citizenship Certificate
4 issued to the person that contains the person's
5 photograph.

6 A United States Passport issued to the
7 person.

8 A License to Carry a Concealed Handgun
9 issued to the person by the DPS or a valid
10 identification card that contains the person's
11 photograph and is issued by an agency or institution
12 of the federal government or of an agency, institution
13 or political subdivision of Texas, such as -- well,
14 that may be on the next paragraph.

15 Any identification card with a photograph.
16 Senate Bill 362 adds the following documentation as
17 acceptable non-photographic proof of identification
18 for voting:

19 One, the voter's Registration Certificate.

20 Next, an original or certified copy of the
21 person's marriage license or Divorce Decree.

22 Next, court records of the person's
23 adoption, name change or sex change.

24 Next, identification card issued to the
25 person by governmental entity of Texas or the United



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005695

TX_00031053

USA_00020577

1 States for the purpose of obtaining public benefits,
2 including veterans' benefits, Medicaid or Medicare.

3 Next, a Temporary Driving Permit issued to
4 the person by DPS.

5 Next, a pilot's license issued to the
6 person by the Federal Aviation Administration or
7 another authorized agency of the United States.

8 Next, a library card that contains the
9 person's name, issued to the person by a public
10 library located in the state.

11 Or next, a hunting or a fishing license
12 issued to the person by the Parks & Wildlife
13 Department.

14 Senate Bill 362 removes the following
15 documentation as acceptable proof of identification
16 for voting: A document similar to a driver's license
17 or personal identification card issued to the person
18 by an agency of another state, regardless of whether
19 the license or card has expired.

20 A non-specified form of identification
21 containing the person's photograph that establishes
22 the person's identity or any other form of
23 identification prescribed by the Secretary of State.

24 Senate Bill 362 authorizes a voter, if the
25 identification requirements are not met, to be



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005696

TX_00031054

USA_00020578

1 accepted for provisional voting, only under the
2 provisions relating to the acceptance of an Affidavit
3 to cast a provisional ballot.

4 The bill requires an election officer to
5 inform a voter that is not accepted for voting because
6 of failing to present the required identification of
7 the voter's right to cast the provisional ballot under
8 those provisions.

9 Senate Bill 362 amends the Transportation
10 Code prohibit DPS from collecting a fee for a person's
11 identification certificate issued to a person who
12 states that the person is obtaining the personal
13 identification certificate for the sole purpose of
14 satisfying requirements for a photographic
15 identification for voting who is a registered voter in
16 Texas and presents a valid, Voter Registration
17 Certificate or who is eligible for voter registration
18 and submits a Voter Registration Application to the
19 department.

20 So the way I read that, you go to your DPS
21 officer, present your Voter Registration Certificate,
22 you get a free photo identification.

23 So the question is: The difficulty in
24 accessing the DPS facilities that are currently in
25 place across the state.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005697

TX_00031055

USA_00020579

Senate Bill 362 requires the Secretary of State, as soon as practicable on or after September 1, 2009, to adopt the training standards and develop the training materials required to implement the bill's provisions related to training.

The bill requires the County Clerk of each county, as soon as practical on or after September 1, 2009, to provide a session of training using the standards adopted and materials developed by the Secretary of State.

Members, do we have any questions for this?

Representative Anchia.

REPRESENTATIVE ANCHIA: Yes, Mr. Chairman, who's the House sponsor of this bill?

CHAIRMAN TODD SMITH: I presume I will be, but that decision has not been made yet.

Representative Anchia?

REPRESENTATIVE ANCHIA: If we have questions about the specific provisions in the bill, who should we direct those questions to?

CHAIRMAN TODD SMITH: Since we don't have a House sponsor and we don't have the author here --

REPRESENTATIVE ANCHIA: I have a lot of questions on the mechanics of the bill, and I'm just



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005698

TX_00031056

USA_00020580

1 trying to think who's the best person to address those
2 questions to?

3 CHAIRMAN TODD SMITH: I presume I'm the
4 best person to answer those and maybe our staff can
5 see if they can find someone.

6 Travis, are you listening?

7 See if someone's available to answer any
8 questions that I can't answer on the technical aspects
9 of the bill.

10 REPRESENTATIVE ANCHIA: And final,
11 Mr. Chairman, I did notice that there is a new fiscal
12 note that is different than the fiscal note that is in
13 the Senate. I believe the fiscal note in the Senate
14 was 0. The new fiscal note is \$2 million.

15 I'm curious as to the methodology of LBB.
16 How they came up with such a radically different
17 outcome three weeks later and what they believe the
18 \$2 million is tied to.

19 I mean, I don't know. Will we have
20 someone from LBB here to answer those questions?

21 CHAIRMAN TODD SMITH: I don't believe we
22 have a resource witness from LBB but I'll be glad to.

23 REPRESENTATIVE ANCHIA: I think it's
24 fairly self-explanatory in terms of the manner in
25 which they determined that there want a fiscal note.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_005699

TX_00031057

USA_00020581

1 For example, one of the provisions to
2 require the Secretary of State or require the local
3 voter registrar provide a written explanation in the
4 changes of the law every time someone registers or
5 renews their Voter Registration Certificate.

6 Is that a new provision to the bill? I'm
7 curious as to why in the Senate that the fiscal note
8 was 0, and then just three weeks later we have a
9 \$2 million fiscal note.

10 What methodology was used? What sort of
11 deliverables they believe they need to be provided?

12 CHAIRMAN TODD SMITH: My suggestion on
13 that, Representative Anchia, is that we invite --
14 please make a note of this -- those people to attend
15 our hearing tomorrow night so they would have an
16 opportunity to make a comment and to answer my
17 questions you might have.

18 Does that work?

19 REPRESENTATIVE ANCHIA: Okay. Thank you.
20 Thank you, Mr. Chairman.

21 CHAIRMAN TODD SMITH: Are there any other
22 questions?

23 REPRESENTATIVE ALLEN: Yes, I have one
24 question.

25 CHAIRMAN TODD SMITH: Representative



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005700

TX_00031058

USA_00020582

1 Allen.

2 REPRESENTATIVE ALLEN: Yes. One question.

3 Are you saying to me if I showed up to
4 register, I need my Voter Registration Book?

5 CHAIRMAN TODD SMITH: No.

6 REPRESENTATIVE ALLEN: If I show up with
7 just my Voter Registration, I'm okay?

8 CHAIRMAN TODD SMITH: If you show up to
9 register, you said? I don't believe there's any
10 changes in the registration procedures.

11 REPRESENTATIVE ALLEN: To vote?

12 CHAIRMAN TODD SMITH: Yes. In this piece
13 of legislation, currently, let's make it clear as that
14 can be: Currently there is a list of documents,
15 photographic identification and a list of
16 non-photographic identification.

17 REPRESENTATIVE ALLEN: I got that list. I
18 got that.

19 CHAIRMAN TODD SMITH: Since the late 1990s
20 you have to have a document in order to vote.

21 REPRESENTATIVE ALLEN: Correct.

22 CHAIRMAN TODD SMITH: You have to have the
23 identification. That is already the law.

24 REPRESENTATIVE ALLEN: I got that already.

25 CHAIRMAN TODD SMITH: If you don't, you



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005701

TX_00031059

USA_00020583

1 cast a provisional ballot, which in most instances,
2 does not count, I understand.

3 REPRESENTATIVE ALLEN: Okay. What I'm
4 trying to see is I must have my Voter Registration
5 Form?

6 CHAIRMAN TODD SMITH: My understanding of
7 the Senate legislation is you have to have two forms
8 of non-photographic identification on the list. A
9 Voter Registration Certificate is one acceptable form.

10 REPRESENTATIVE ALLEN: Okay.

11 CHAIRMAN TODD SMITH: It is not a
12 mandatory form. It is not one of the two that must be
13 shown.

14 REPRESENTATIVE ALLEN: Okay. So I can
15 have two others?

16 CHAIRMAN TODD SMITH: You can have two
17 others. That's my understanding.

18 REPRESENTATIVE ALLEN: I'm just trying to
19 get it to the point -- to the bottom of -- if I lose
20 my Voter Registration and that's with that, and I
21 still just need two other forms of I.D.?

22 CHAIRMAN TODD SMITH: That's my
23 understanding.

24 REPRESENTATIVE ALLEN: All right.

25 CHAIRMAN TODD SMITH: If I'm wrong, we'll



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005702

TX_00031060

USA_00020584

1 correct that tomorrow.

2 REPRESENTATIVE ALLEN: All right.

3 CHAIRMAN TODD SMITH: Representative
4 Heflin.

5 REPRESENTATIVE HEFLIN: Just so I'm clear:
6 The new fiscal note here is saying the DPS is
7 forwarding the existing cost of using -- that the DPS
8 would absorb that cost?

9 CHAIRMAN TODD SMITH: Yes. Obviously, the
10 overwhelming majority of Texans already have the
11 photographic documentation that is required of this
12 legislation.

13 We're talking about, you know, the
14 testimony today to identify this. But my
15 understanding is that the percentage of Texans, the
16 voting-age Texans who do not have the photographic
17 identification that is not required but allowed under
18 this bill is something less than five percent of
19 voting age population.

20 That percentage of people, whichever ones
21 of them presented themselves at a DPS station and
22 said, I wish to have a photographic identification
23 free of charge that I intend to use for purposes of
24 voting, would be given a photographic identification
25 free of charge at their local DPS station. That's my



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005703

TX_00031061

USA_00020585

1 understanding of how that works.

2 The reason that there is not a fiscal note
3 there is because it is an additional burden on DPS and
4 could easily be handled within available revenues when
5 you consider what a small percentage of the population
6 would be in that category.

7 And the fact that some of the people that
8 are in that category might be using it for purposes
9 other than simply voting.

10 REPRESENTATIVE HEFLIN: So a concern I
11 have is that LBB has said the Secretary of State is to
12 provide \$2 million for this education. It also says
13 that local government impact, but it doesn't say how
14 much that's going to cost local government's.

15 Who's going to pay for all this additional
16 training and who's going to pay for all this
17 additional signage? And who's going to pay for all
18 the extra staff needed to implement this?

19 CHAIRMAN TODD SMITH: Well, I think we
20 will have LBB here tomorrow, and to the extent that
21 they have deemed -- it is free for local government.

22 REPRESENTATIVE BROWN: Fiscal impact would
23 vary from county to county. Costs would include the
24 amendment both for printing signs to post at each
25 polling place, which would not be significant.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005704

TX_00031062

USA_00020586

1 Other potential costs would be associated
2 with additional training and posting information to
3 the county websites. Again, those costs are not
4 expected to be significant. People are already
5 trained. This is simply training that would occur at
6 the same time training already occurs.

7 One smaller county response anticipates
8 that the new provisions regarding casting and
9 provisional ballots would require hiring additional
10 staff, resulting in a moderate to significant cost.

11 REPRESENTATIVE HEFLIN: But you agree that
12 it's going to take more time and money to train these
13 people to be able to identify 16 different forms to
14 verify that they're legitimate?

15 REPRESENTATIVE TODD SMITH: Well, you
16 know, I just want to emphasize again that they're
17 already doing that.

18 We already have a list of photographic and
19 non-photographic identification that is acceptable at
20 the polls. You have to do that now. I presume these
21 people are already trained on what is acceptable and
22 what is not acceptable.

23 We're simply taking these two lists --
24 there are some small changes on the list, but we're
25 taking the two lists that already exists or the Senate



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_005705

TX_00031063

USA_00020587

1 Bill does and instead of saying you've gotta have one
2 off of the other, we're saying if you choose this list
3 that does not include photographic identification,
4 then you need to back up your Voter Registration Card
5 or whatever document you place on the table with an
6 additional non-photographic identification ever so
7 much.

8 So my presumption is that the training or
9 the extent of the training would be very similar and
10 will be different than current training but should be
11 no more burdensome than existing training in terms of
12 the impact on local governments.

13 Representative Brown and then
14 Representative Anchia.

15 And let me just say, members that want to
16 go to bed at midnight, that at some point we're going
17 to need to get to the witnesses but we're going to be
18 in trouble.

19 REPRESENTATIVE BROWN: Let me say one
20 question: You used the five-percent figure for those
21 who do not have photo ID.

22 How do the people who vote by mail, those
23 who vote from a nursing home that is provided in here,
24 the 70 and so on -- have those been subtracted in
25 order to come up with the five percent number?



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005706

TX_00031064

USA_00020588

1 CHAIRMAN TODD SMITH: That's why I
2 qualified that number with we're going to hear expert
3 testimony tonight that will help us identify what that
4 is.

5 REPRESENTATIVE BROWN: Okay. Okay.

6 CHAIRMAN TODD SMITH: My general intent
7 with throwing that number out there was just to
8 present the suggestion that the overwhelming majority
9 of voting-age people already have photographic
10 identification.

11 There is a small minority of people who do
12 not. They are the minority that have the
13 constitutional right to vote.

14 And I know every member on this committee
15 takes very serious the fact that even those who do not
16 have photographic identification, do have a
17 constitutional right to vote.

18 And simply because they're a minority,
19 does not mean that we don't take that right seriously
20 and any legislation that comes out of this committee
21 is going to take that right seriously.

22 And so I was not intending to establish as
23 a matter of fact the percentage, but to simply relay a
24 general sense on my part that you're talking about a
25 small minority of legal age voters. We'll let these



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005707

TX_00031065

USA_00020589

1 people tell us what percentage.

2 I'll defer to Dr. Alan.

3 CHAIRMAN TODD SMITH: Okay.

4 REPRESENTATIVE ALLEN: I wanted to ask a
5 question about the DPS reference you made, chair.

6 You said you could get your voting ID at
7 the DPS. You said just show up at the DPS office and
8 you could get your I.D. free.

9 CHAIRMAN TODD SMITH: Yes, ma'am.

10 REPRESENTATIVE ALLEN: Show up is a
11 question I have. Show up. I've got to go there.

12 CHAIRMAN TODD SMITH: To get a picture
13 taken.

14 REPRESENTATIVE ALLEN: To get a picture
15 taken and there are a lot of people who would not be
16 in a position to show up at the office.

17 The other thing I thought I heard you say
18 was that you could only use this I.D. for voting.

19 So if I showed up, if I was able to show
20 up and I had this piece of ID in my person and I
21 wanted to use it for something else, I'd be dong what?

22 CHAIRMAN TODD SMITH: No. You can't use
23 it for voting.

24 REPRESENTATIVE ALLEN: No. I want to use
25 it for something else. I can only use it for voting?



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005708

TX_00031066

USA_00020590

1 Is that what you meant?

2 CHAIRMAN TODD SMITH: Well, I think that's
3 the way the Senate Bill is written. That it is free
4 for purposes -- let's see if we can find that in terms
5 of the free provision, in terms of how it's written.

6 REPRESENTATIVE BROWN: It's my
7 understanding, that in order to get the free I.D., it
8 has to be for the purposes of voting.

9 However, after you possess that, there's
10 no provision that says you can't use it for other
11 things. That's my understanding.

12 CHAIRMAN TODD SMITH: That's a good point.
13 And what the language says is, "The department may not
14 collect the fee for a Personal Identification
15 Certificate for the person who states that the person
16 is obtaining the Personal Identification Certificate
17 for the sole purpose of obtaining Section 63.1-B of
18 the Election Code. And who is registered to vote in
19 states and present a valid Voter Registration
20 Certificate."

21 REPRESENTATIVE ALLEN: But I'm concerned
22 that after I get it, I want to make sure that this is
23 not in the bill.

24 That after I get it, I voted. Now, I go
25 and maybe I need to go and cash a check or do



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005709

TX_00031067

USA_00020591

1 something else or the police stop me and I need some
2 I.D.

3 I cannot use that for ID purposes?

4 CHAIRMAN TODD SMITH: To the extent that
5 that's not clear in the legislation, I would agree
6 that we should make it clear.

7 REPRESENTATIVE ALLEN: At some point, I
8 think we'll have another law.

9 CHAIRMAN TODD SMITH: Sure. I think that
10 needs to be clear.

11 REPRESENTATIVE ANCHIA: Mr. Chairman.

12 CHAIRMAN TODD SMITH: Representative
13 Anchia.

14 REPRESENTATIVE ANCHIA: Mr. Chairman, just
15 one more question about the bill: The bill that is
16 before us today is the Fraser Senate Bill.

17 CHAIRMAN TODD SMITH: That's correct.

18 REPRESENTATIVE ANCHIA: Tomorrow, we will
19 have the Brown Bill, the Heflin Bill, the Bonnen Bill
20 and the Fraser Bill, correct?

21 CHAIRMAN TODD SMITH: And we also
22 suspended the rules on the House Floor so that we
23 would have a couple of Dunham Bills and we would also
24 have a Chuck Hopson Bill.

25 REPRESENTATIVE ANCHIA: Okay.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005710

TX_00031068

USA_00020592

1 CHAIRMAN TODD SMITH: We will be dealing
2 in some manner with this general issue?

3 REPRESENTATIVE ANCHIA: Do any of them
4 have committee substitutes? Because we created a rule
5 that we were going to be able to review committee
6 substitutes with some advanced warning.

7 CHAIRMAN TODD SMITH: You know, I don't
8 know.

9 REPRESENTATIVE ANCHIA: Okay. But is that
10 something that we should discuss as a committee before
11 we take up and consider those bills?

12 CHAIRMAN TODD SMITH: Yeah. We could do
13 that. If anybody feels like any of that is a
14 surprise, then we can certainly accommodate those
15 concerns.

16 REPRESENTATIVE ANCHIA: So I just want to
17 be clear: That the Fraser Bill that was discussed
18 earlier, that the Fraser Bill has an exemption for
19 people that are 70 years old and that is not the
20 Fraser Bill, that is the Brown Bill, correct?

21 CHAIRMAN TODD SMITH: That's correct.

22 REPRESENTATIVE ANCHIA: And the Brown Bill
23 is not before us, correct?

24 CHAIRMAN TODD SMITH: That's correct. I
25 don't want to speak for Betty in terms of what is in



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005711

TX_00031069

USA_00020593

1 her bill, but I believe that is in her bill.

2 REPRESENTATIVE ANCHIA: I think, yeah.
3 The question arose, and the inference was made that it
4 was in this bill. And I don't believe that. I
5 believe it is in one of the bills we're going to hear
6 tomorrow.

7 CHAIRMAN TODD SMITH: Okay.

8 REPRESENTATIVE ANCHIA: The second issue
9 related to poll-worker training. I want to make sure
10 we're talking apples to apples, Mr. Chairman.

11 You said you didn't think there would be
12 any significant increase in training. We are adding a
13 substantial, additional number of documents, and we
14 are moving from a presentment standard to an identity
15 standard. In other words, there has to be a visual
16 confirmation of identity under the Fraser Bill.

17 So that is a significantly different
18 standard. And we did hear testimony from the
19 Department of Public Safety during the interim that
20 there is a special training associated with that.

21 So I don't want anybody in the media or
22 the audience to leave thinking this is an apples to
23 apples training.

24 CHAIRMAN TODD SMITH: Yeah. I think
25 you're right about that, Representative Anchia. And



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005712

TX_00031070

USA_00020594

1 for whatever it's worth, I publicly signaled my
2 displeasure with that particular provision.

3 And to the extent that it is removed in
4 the House version would eliminate any -- I think it
5 would create a bill where the additional -- the
6 additional costs of the counties is more in line with
7 what I've just described.

8 But I think you're right, that in the
9 Senate version, somebody would have to be trained on,
10 as I understand it correctly, when you like yourself,
11 for your vote to count.

12 REPRESENTATIVE ANCHIA: Mr. Chairman, I
13 appreciate your signal, and I just want to make sure
14 we talk about the Fraser Bill today. So thank you.
15 Thank you for that clarification.

16 CHAIRMAN TODD SMITH: Representative
17 Bohac.

18 REPRESENTATIVE BOHAC: Mr. Chairman, I
19 just wanted to just briefly address Dr. Allen's
20 comments a moment ago.

21 It's in Section 12 of the bill, and the
22 DPS usually issues an official ID card or Texas
23 driver's license. And this would be an ID card that
24 could be used for any other purposes for which an ID
25 card could be used for. So I think that would address



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005713

TX_00031071

USA_00020595

1 your concern and it's in Section 12.

2 REPRESENTATIVE BROWN: Thank you.

3 REPRESENTATIVE BOHAC: And it's in Section
4 12.

5 REPRESENTATIVE BROWN: Thank you.

6 CHAIRMAN TODD SMITH: Any other questions?

7 REPRESENTATIVE VEASEY: Yes, sir.

8 CHAIRMAN TODD SMITH: Representative
9 Veasey.

10 REPRESENTATIVE VEASEY: Just looking
11 through the bill, I didn't see anything in there about
12 being able to use your utility bill.

13 Is there somewhere in the bill that
14 addresses being able to use your utility bill?

15 CHAIRMAN TODD SMITH: I don't believe it
16 indicated that that was eliminated from the list.

17 Yes, Representative Veasey, if you look at
18 the bottom of Page 6, it's current law and it states
19 it in this language.

20 REPRESENTATIVE VEASEY: Okay.

21 CHAIRMAN TODD SMITH: "Registration card,
22 current utility bill, bank statement. Government
23 check, paycheck or other government document that
24 shows the name and address of the voter."

25 REPRESENTATIVE VEASEY: Okay. Thank you.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005714

TX_00031072

USA_00020596

1 CHAIRMAN TODD SMITH: Okay.

2 Any other questions before we move on to
3 witnesses?

4 Okay. Can I take it back?

5 Thank you.

6 Chairman Pena.

7 At this time, we will begin with our
8 testimony. Remember the rules from a time standpoint.
9 You'll have the clock down here, which will begin as
10 soon as you begin speaking.

11 At this time the chair recognizes Todd
12 Rokita, the Secretary of State of Indiana.
13 Representative and voters and tax payers in the state
14 of Indiana who wish to testify in favor for or against
15 Senate Bill 362, welcome.

16 TODD ROKITA: Thank you, Mr. Chairman.

17 Mr. Chairman, may I begin?

18 CHAIRMAN TODD SMITH: You may.

19 TODD ROKITA: Thank you, sir.

20 Greetings from the people of the state of
21 Indiana. It's an absolute honor to be before
22 colleagues and distinguished leaders of what many of
23 us consider a very great state.

24 Every time I come into the state, which I
25 can't say is often enough, I'm reminded of the spirit



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005715

TX_00031073

USA_00020597

1 of the people of Texas. Its history of independence
2 and what a leader for the country this jurisdiction
3 is. So it is truly an honor to be back.

4 In that vain, I'd like to discuss and
5 answer the questions that you pose.

6 The experience in Indiana --

7 CHAIRMAN TODD SMITH: Secretary Rokita,
8 you may have started without stating your name and who
9 you represent. Would you please just do that for
10 these purposes.

11 TODD ROKITA: You just did when you
12 introduced me.

13 CHAIRMAN TODD SMITH: There are some
14 people who believe if you don't do it, it may create a
15 problem with the transcript.

16 TODD ROKITA: Okay. I'm Todd Rokita of
17 the aforementioned person. I'm the Secretary of State
18 of Indiana.

19 CHAIRMAN TODD SMITH: Thank you.

20 TODD ROKITA: And we do have a Photo ID
21 law without exception.

22 But I am not here, as I was getting ready
23 to say at all, to presume to tell you fellow leaders
24 what ought to be in the state of Texas. We believe
25 too much in state's rights like you do to do something



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005716

TX_00031074

USA_00020598

1 like that.

2 I am here, and in looking at your
3 biography, see that we have a good deal of lawyers on
4 the committee, as am I.

5 Please consider me a fact witness. So I'm
6 to answer questions about how things went in Indiana.
7 Not to ignore, Mr. Chairman, your request to try to
8 extending what is Texas law and what this bill does.

9 As I go through my testimony, which I
10 don't expect to take all of ten minutes, hopefully
11 some of yours questions will be answered and I'm happy
12 to answer them directly afterwards.

13 This year the country and especially
14 Indiana, because we grew the man from the year 7 to
15 21, we celebrate the 200th anniversary of Abraham
16 Lincoln's birthday.

17 Yet in many parts of the country, and
18 until recently in Indiana, we were electing our
19 leaders as if Abraham Lincoln was still on the ballot.
20 In fact, he's the one that helped invent the precinct
21 structure, and we used signatures on written poll
22 books back then we used on the ballot because that was
23 the best technology we had.

24 We have seen more election reform in the
25 last eight years or so than we have seen since the



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005717

TX_00031075

USA_00020599

1 Voting Right Act of 1965.

2 And we that sentence, I just said a
3 mouthful. We need to start voting how we live in the
4 21st century. And with all the accessibility that we
5 have introduced into the process, Mr. Chair, since the
6 amendments to the United States Constitution, up to
7 the federal statutory changes that led to the Voters'
8 Rights Act in 1965, to the whole slew of state
9 accessibility measures and now most recently another
10 piece of legislation called the Help America Vote Act,
11 makes voters and the process more and more acceptable
12 accessible.

13 What photo ID in Indiana said if you don't
14 start adding another bumper rail to all that
15 accessibility with measures of integrity like photo
16 ID, then you won't have a process that people will
17 believe. If people stop believing in the process,
18 voter turn-out goes down. When voter turn-out goes
19 down, we lose the republic.

20 So when my good friend Raphael Anchia
21 says, what is the mood on the table here? Why is the
22 voter turn-out so low?

23 In Indiana we say people administering the
24 elections don't take it seriously enough. They don't
25 even take it as seriously as the 18-year old who



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005718

TX_00031076

USA_00020600

1 rented a video, rented me a video last Friday night
2 when he asked for my ID.

3 In the one academic study that compares
4 apples to apples that studied Indiana's voter turn-out
5 before photo ID and after ID with similar elections,
6 it was the Millial Study from the University of
7 Missouri.

8 At that time there were only four or live
9 elections we had in Indiana. Turn-out went up five
10 percent. It went up around that time and I expect it
11 will go up some time into the future.

12 So photo ID wasn't the magic pill to voter
13 turn-out, nor was it expected to be, but it certainly
14 hasn't deterred turn-out and, in fact, has increased
15 it.

16 Again, we believe because the hypothesis
17 was proved that once you put a balance into the
18 process, accessibility and integrity, you get a
19 process that people believe in.

20 Identity theft is the highest-growing
21 crime in the United States and in many parts of the
22 world. Yet those that want to come down into the
23 weeds on this issue and demand evidence -- and I'll
24 get to the reasons why it's very hard to produce
25 evidence -- want to have you believe that while



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_005719

TX_00031077

USA_00020601

1 identity theft exists and the risk of it accrues, in
2 every transaction we have in our life's -- financial,
3 social, whatever -- that somehow there's a bubble, an
4 impenetrable bubble around our election process where
5 no identity theft can occur.

6 And I just don't think and any reasonable
7 person doesn't think that can be the case. 80 percent
8 of voters and taxpayers across this country don't
9 think it can be the case.

10 And again, if the purpose of photo ID is
11 to instill confidence in the process, again, then that
12 80-percent public opinion, well, we shouldn't be
13 making our discussions based off of polls, that has
14 relevance. That matters when you're talking about
15 instilling confidence, whether you personally believe
16 there's evidence of fraud or not.

17 I'm pleased to note for the record that
18 the Carter-Baker Commission that was referenced here
19 in your deliberations for photo ID at the polls.

20 Is this right? Can I sleep at night?
21 Someone on your committee or an observer with the
22 committee asked that question. You bet I can because
23 this means that every vote counts equally.

24 There are two kind of disenfranchisement.
25 There's the kind that we all know to be wrong, and I



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_005720

TX_00031078

USA_00020602

1 think everyone here in this room has actively worked
2 to deter. And by and large, it it's out of our
3 institutions and our process of voting.

4 But there's another kind of
5 disenfranchisement that occurs when those honest
6 voters, those votes of you, me and our constituents
7 are cheated, are diluted by those who would cheat the
8 system. And photo ID makes sure that can't happen.

9 With regard to evidence, what we've
10 experienced in Indiana is that first of all -- and
11 this shouldn't be unique to Indiana -- the crime of
12 voter impersonation is one that's very hard to collect
13 evidence on. It happens in an instant and then the
14 actors disburse.

15 It's not like you have a dead body after
16 the act occurs. So to argue that there's no evidence,
17 we haven't produced any, is to be disingenuous to the
18 kind of act that we're talking about.

19 Secondly-- and this may only be true in
20 Indiana, I suspect -- our prosecutors, the only ones
21 who can bring criminal charges in the state are
22 elected. And for me that means two things, and that's
23 partisanly elected.

24 At its worse. It means that they won't
25 file charges for one of two reasons. If they file



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005721

TX_00031079

USA_00020603

1 against someone in their own party, they're looked at
2 as traders. If they file against someone in the other
3 party, they're looked at as partisan.

4 The higher road to take with regard to
5 separate elected prosecutors, and I think that's also
6 true with respect to Indiana and across the nation, is
7 that there is very violent crime out there that
8 deserves and needs to be punished.

9 Voter fraud is not violent fiscally. It's
10 harming. But to convince a prosecutor that they
11 should take a deputy off the violent crime or other
12 terrible acts to go learn Indiana's or whatever
13 jurisdiction's Election Code -- depending on the size
14 of the county, especially -- is just not going to
15 happen.

16 It's impractical, and they would argue
17 sometimes it's unreasonable. That does not mean the
18 crime didn't occur. That does not mean there is no
19 evidence. That just means it hasn't been prosecuted
20 for one or more of reasons to which I just explained.

21 With that, it looks like I have
22 19 seconds. I'm happy to start taking your questions.
23 Thank you very much for having me.

24 CHAIRMAN TODD SMITH: All right. Let me
25 start your clock here.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005722

TX_00031080

USA_00020604

1 The Supreme Court opinion on Page 3
2 indicates that "the District Court found that the
3 petitioner's had not introduced evidence of a single
4 individual Indiana resident who'll be unable to vote
5 as a result of the legislation or who will have his or
6 her right to vote unduly burdened by its
7 requirements."

8 Can you address to any degree that comment
9 and were you present at all? Were you involved in the
10 District Court proceedings and aware of the state of
11 the evidence that caused that District Court judge to
12 reach that conclusion?

13 TODD ROKITA: Yes. I mentioned that a lot
14 of us are lawyers and we may have had mothers like
15 mine who wanted us to be a medical doctor, who had
16 shook her head in disbelief when I told her I was
17 going to law school.

18 I said, "Don't worry, mom. Maybe one day
19 I'll get to argue a case before the United States
20 Supreme Court." Well, I didn't get to argue it, but I
21 was a defendant all the way up.

22 So I do have some very personal experience
23 with it. And in that vain, I'm passing out to you a
24 document that I've authored and titled "Indiana's
25 Photo ID Voting Requirement." My office authored it.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005723

TX_00031081

USA_00020605

1 Actually, it has code sites. It dissects Indiana's
2 law for your staff's reference and gives you the site
3 so you can make comparisons.

4 It is true, the defendants did not produce
5 one person who was genuinely disenfranchised by this
6 law. We took a lot of time. We had hearings just
7 like this. None of the arguments brought by any of
8 your committee members on either side of the issue are
9 making a new argument in my eyes. We've been through
10 this before.

11 And because of that we made some changes
12 along the way, and the result was a very narrowly
13 draft crafted law that has resulted as the court found
14 in that one disenfranchisement. And that's not to say
15 if they did find one that the case would be lost.

16 But the Supreme Court found was that there
17 was a very valid and reasonable interest in the states
18 putting parameters on their elections. What I was
19 talking about earlier, to balance all that
20 accessibility with members of integrity.

21 CHAIRMAN TODD SMITH: Now, despite that
22 balance by the Supreme Court that there was not a
23 single voter who could establish an unreasonable
24 burden, the dissenting opinion in the case indicates
25 that 34 in Marion County -- and I want to give you an



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005724

TX_00031082

USA_00020606

1 opportunity to address this -- in Marion County -- and
2 let me just be clear: Your form of Photo ID
3 Legislation is, and I don't expect you to it admit
4 that it's onerous -- but it's certainly the most
5 onerous form of identification legislation in the
6 United States at this time?

7 Is that your understanding?

8 TODD ROKITA: No. It's the most
9 progressive.

10 CHAIRMAN TODD SMITH: I'll accept that.
11 I'll accept that.

12 TODD ROKITA: And I'll explain.

13 CHAIRMAN TODD SMITH: Well, it indicates
14 that in the dissenting opinion, in the Supreme Court
15 opinion, that in Marion County there were 34
16 provisional ballots that were cast as a result of
17 legislation, but that only two provisional voters made
18 to the County Clerk's Office within ten days.

19 It indicates that all 34 of these aspiring
20 voters appeared at the appropriate precinct. That 33
21 of them provided a signature and every signature
22 matched the one on file. And that 26 of the 32 voters
23 who's ballots were not counted in the history of
24 voting in Marion County elections.

25 Now, that's one county that for the



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005725

TX_00031083

USA_00020607

1 dissenting opinions sites in the big states. And it
2 does raise questions about the provisional ballot
3 mechanism chosen in Indiana versus other states in
4 terms of the extent to which that burden of going
5 downtown has, perhaps, is not an unreasonable burden
6 but may, in fact, nevertheless, result in unacceptable
7 proportions of otherwise, legal votes not counting.

8 Why is that not a legitimate concern?

9 TODD ROKITA: Well, first of all, you'd
10 have to understand: There was no fact trial on this
11 case, and that evidence went in uncontested in a reply
12 brief by the ones who filed suit.

13 So we weren't able to, you know, combat
14 that in court, and I think that was -- it was a bad
15 decision on the part of the dissenting judge, a
16 partisan appointment, Court of Appeals or not. Just
17 like the two in majority were. Partisan appointments.

18 CHAIRMAN TODD SMITH: Do you have a
19 specific response to that particular county or you
20 just don't know?

21 TODD ROKITA: No. First of all, I would
22 say that it's not unreasonable, and we give ten days,
23 we'll hold up the election results for ten days, if
24 they forgot their photo ID, didn't even have one at
25 the time, to prove their identity, which is -- when



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_005726

TX_00031084

USA_00020608

1 you say a strict voter law.

2 Georgia allows two days. I'm not sure
3 whether this bill requires a time to come back or not.
4 We also have exceptions to that.

5 And the testimony would be in response to
6 that, well, if until you interview those witnesses,
7 you don't know if they were ever valid voters of
8 Marion County. Those 36 could have all been cheating
9 the system.

10 The point being: It's a confidence
11 builder.

12 CHAIRMAN TODD SMITH: Do you know -- this
13 legislation was passed when?

14 TODD ROKITA: 2005.

15 CHAIRMAN TODD SMITH: And so we have had
16 what? Two elections since then?

17 TODD ROKITA: No, sir. We've had nine in
18 the state of Indiana. All successful.

19 CHAIRMAN TODD SMITH: Can you help me know
20 the number of provisional ballots that have been cast?
21 Not total provisional ballots, but provisional ballots
22 cast because people do not have the proper
23 identification at the polls?

24 TODD ROKITA: No.

25 CHAIRMAN TODD SMITH: Unknown?



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005727

TX_00031085

USA_00020609

1 TODD ROKITA: There's none.

2 CHAIRMAN TODD SMITH: Because they're
3 mixed in together?

4 TODD ROKITA: No. All the professional
5 ballots -- you have to have the reason why they cast
6 provisional ballots, but that data is not casted and
7 collected at the state level. You'd have to
8 investigate in every county.

9 But we do all around and ask and we do get
10 many calls on election day. It's a non-issue.

11 CHAIRMAN TODD SMITH: Okay. When you say
12 that, you're saying that your impression is the number
13 of provisional ballots that are cast because people in
14 the community do not have the proper identification is
15 minuscule --

16 TODD ROKITA: Compared to all the reasons
17 for casting a provisional ballot.

18 CHAIRMAN TODD SMITH: Okay.

19 TODD ROKITA: I don't want to put
20 percentages out there, but if you had 10 or 100, it
21 would be, you know, in the neighborhood of 2 or 20 but
22 I don't want to --

23 CHAIRMAN TODD SMITH: I'm not sure I
24 understand what you're saying.

25 You're saying if you had 10 or 100. Tell



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005728

TX_00031086

USA_00020610

1 me --

2 TODD ROKITA: If you had ten provisional
3 ballots, and, again, it's just anecdotal.

4 CHAIRMAN TODD SMITH: Yes.

5 TODD ROKITA: Maybe two would be for an ID
6 reason. But then we don't know if those two actually
7 came and presented an ID or if they shouldn't have
8 been voting in the first place.

9 CHAIRMAN TODD SMITH: I understand.

10 So you just can't tell me how many
11 statewide provisional ballots are counted or the
12 percentage of those provisional ballots -- well, I
13 didn't ask that question.

14 You can't tell me the number of
15 provisional ballots cast statewide, give me a general
16 sense of how many there are, or the percentage of
17 those ballots that are ultimately counted pursuant to
18 the manner in which a provisional voter goes downtown
19 and does whatever he has to do in order for it to
20 count? You don't know that?

21 TODD ROKITA: Without a valid ID
22 requirement.

23 CHAIRMAN TODD SMITH: Okay.

24 TODD ROKITA: No.

25 CHAIRMAN TODD SMITH: Questions, members?



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005729

TX_00031087

USA_00020611

1 Yes, Representative Anchia.

2 REPRESENTATIVE ANCHIA: Welcome to Texas,
3 Mr. Secretary. It's good to see you.

4 TODD ROKITA: Thank you.

5 REPRESENTATIVE ANCHIA: The Secretary and
6 I are members of the Rodel Fellowship, a bipartisan
7 fellowship, so we have had the good fortune of getting
8 to know each other over the last couple of years and
9 have had, I think, well-reasoned disagreements on this
10 particular issue. But we also found some common
11 ground.

12 I want to begin the questions with maybe
13 the common ground that you and I have found. Because
14 I know while we disagree on voter ID, you have
15 implemented strategies in your state to increase
16 ballot access. And I think you eluded to that earlier
17 in your testimony where you talked about vote where
18 you live and making voting locations more accessible
19 to people.

20 And can you talk to me a little bit about
21 those strategies and how much they costed. And let me
22 frame that in the context of Carter-Baker.

23 Both you and I referred to Carter-Baker,
24 but I think you and I would agree that the Photo ID
25 requirement is just one of 87 different



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005730

TX_00031088

USA_00020612

1 recommendations made by Carter-Baker.

2 So if you could talk about in a broader
3 context, things that you did in your state to increase
4 access to the franchise and which ones of those would
5 be consistent with expanding the franchise under
6 Carter-Baker.

7 Finally, how much do they cost.

8 TODD ROKITA: Thank you.

9 The first example that comes to mind
10 that's directly relevant to the photo ID debate that
11 we had and the bill that was actually passed had to do
12 with how we came together after the vote.

13 And I think no legislation is going to do
14 that for you. I think it's going to be leadership
15 here. Our leadership on this committee and have that
16 fan out in a bipartisan fashion; which I did and I'm
17 not here to blow my own horn.

18 But what worked for us is that those of us
19 that agreed with the law I put in a room the same room
20 with those who disagreed with the law.

21 And I said, "We're not going to leave this
22 room until we have a cohesive plan for reaching out to
23 those that some thought would be disenfranchised and
24 some thought would not be and come together with a
25 comprehensive outreach.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_005731

TX_00031089

USA_00020613

1 And I think that's one of the key things,
2 depending on how the vote goes here, that you all can
3 do together.

4 So those who have sued me and still
5 continue to sue me, like the League of Women Voters,
6 were there that room and we continue open lines of
7 communication, and here's how to best reach folks.

8 And a good idea, though, Rafael, not just
9 public, TV and radio ads, but purchasing some money
10 behind it. But also non-traditional forms of
11 advertising, like inside and outside of buses, for
12 those that, you know, would see it that probably
13 wouldn't have a driver's license. We wanted them to
14 know --

15 REPRESENTATIVE ANCHIA: I like the
16 advertising idea. How much did your budget increase?

17 TODD ROKITA: We used the Help America
18 Vote funds, and so we coached it couched it as part of
19 a larger Get out the Vote strategy that we were
20 supposed to do in Get Out the Vote Act.

21 REPRESENTATIVE ANCHIA: How much did you
22 spend in that?

23 TODD ROKITA: \$1.2 million.

24 REPRESENTATIVE ANCHIA: Okay. That was
25 for the advertising piece?



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005732

TX_00031090

USA_00020614

1 TODD ROKITA: For the advertising piece
2 and some was for training and education of the poll
3 workers that the chair mentioned. That was for the
4 first elections and we kind of front-loaded it because
5 this was newer for everybody.

6 REPRESENTATIVE ANCHIA: Right.

7 TODD ROKITA: But I will say in Indiana,
8 which is a blue state right now, for those who think
9 that this is going to drive down turn-out, I mean,
10 Indiana is a fairly conservative state. It hasn't
11 been blue in 45 years. It is today with the Photo ID
12 law.

13 We had a whole bunch of new voters come in
14 and I love to see it and that's because Mrs. Clinton
15 and Mr. Obama campaigned in Indiana's primary state,
16 as well.

17 REPRESENTATIVE ANCHIA: How much did they
18 spend on advertiser turn-out? I just want to make
19 sure I'm not hearing what I know you're not saying is
20 that turn-out went up because of Voter ID.

21 TODD ROKITA: No. No. No. I told you
22 before that photo ID is not a magic pill to make --
23 that's not the point.

24 My point is that we had a whole group of
25 new voters participate in Indiana this time and no one



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005733

TX_00031091

USA_00020615

1 found the photo ID to be an issue with all these new
2 voters. That's the point.

3 REPRESENTATIVE ANCHIA: Back to the
4 strategies you used -- what makes Carter-Baker
5 consistent?

6 TODD ROKITA: To finish the earlier point,
7 we front loaded the 1.2 million.

8 So even though we had all the early voters
9 in Indiana this time, for education and outreach, we
10 probably only spent \$200,000 or so.

11 And that showed me the point: It's not a
12 conclusive point but it's making me wonder how much
13 you really have to spend on education and outreach
14 versus very laser-like pointed outreach.

15 Like, for example, because we had so many
16 new college voters in Indiana this time excited over
17 the candidates, we simply mailed a postcard to every
18 new registrant, college or otherwise, and reminded
19 them: Here's the five things you have to bring on
20 election day and one of those is a photo ID.

21 REPRESENTATIVE ANCHIA: How much did that
22 cost?

23 TODD ROKITA: That was probably half of
24 the -- that was probably \$100,000, maybe.

25 REPRESENTATIVE ANCHIA: How big is Indiana



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005734

TX_00031092

USA_00020616

1 population?

2 TODD ROKITA: Six point some million.

3 REPRESENTATIVE ANCHIA: So about the size
4 of Dallas, Fort Worth?

5 TODD ROKITA: Yes.

6 REPRESENTATIVE ANCHIA: How many
7 registered voters?

8 TODD ROKITA: Just over 4.5, 4.89.

9 REPRESENTATIVE ANCHIA: So less than a
10 fourth of the State of Texas?

11 TODD ROKITA: Yes.

12 REPRESENTATIVE ANCHIA: I'm just trying to
13 figure out: There's no money in the Fraser Bill, as
14 far as I can tell or no additional advertising
15 requirements. Nothing to put forward for training as
16 far as I can tell from the bill, nothing what you all
17 did in Indiana.

18 You talked a little bit about where. Talk
19 to us a little bit about where you live and where you
20 work, very quickly.

21 TODD ROKITA: Yeah. You know, we have to
22 vote how we live in the 21st century. So you also see
23 Indiana trying to pass a bill that would allow for
24 vote centers, where it gets rid of the precinct
25 structure on election day.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005735

TX_00031093

USA_00020617

1 REPRESENTATIVE ANCHIA: Are these mega
2 precincts?

3 TODD ROKITA: Well, they're mega
4 precincts, but it's more to the point that you can
5 vote in a grocery store or you can vote as you drop
6 your kids off at day care. At school. You don't have
7 to race back to any particular part of the county to
8 try to --

9 REPRESENTATIVE ANCHIA: Right.

10 TODD ROKITA: And you can use technology
11 to do that now. And you see me, the Secretary of
12 State, promoting a bill of this section in Indiana
13 that allows for on mine voter registration for not
14 everybody, but for some of us that may have already
15 have our data in a government database like the Bureau
16 of Motor Vehicles. I think that's maybe what you call
17 DPS.

18 REPRESENTATIVE ANCHIA: Uh-huh.

19 TODD ROKITA: To do things like that, but
20 photo ID is the springboard, that security measure,
21 that allows you to do some of these other things and
22 retain the confidence of the taxpayer and the voter.

23 REPRESENTATIVE ANCHIA: You mentioned in
24 your testimony that photo ID stops the cheating,
25 right?



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005736

TX_00031094

USA_00020618

1 TODD ROKITA: Say what now?

2 REPRESENTATIVE ANCHIA: You said people
3 who are cheating the system -- photo ID makes it so
4 that that doesn't happen; is that right?

5 TODD ROKITA: Where did I say this?

6 REPRESENTATIVE ANCHIA: Just a couple
7 minutes ago.

8 TODD ROKITA: No. What I said: It's a
9 confidence builder. So whether you believe people are
10 cheating the system or not, what it is is that other
11 guardrail. Again, all that accessibility is a measure
12 of integrity over time.

13 REPRESENTATIVE ANCHIA: So, essentially,
14 it is your contention that when people believe that
15 the system is better, then, they're going to
16 participate more?

17 TODD ROKITA: Absolutely.

18 REPRESENTATIVE ANCHIA: I just read a
19 study from MIT in Columbia from January or February of
20 last year, that said just the opposite. That there's
21 absolutely no correlation related to deterring.

22 Are you familiar with the study?

23 TODD ROKITA: No.

24 REPRESENTATIVE ANCHIA: Okay.

25 TODD ROKITA: And you know, a study that's



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005737

TX_00031095

USA_00020619

1 1,000 miles away or so from Indiana doesn't hold
2 weight with me. I'm the guy on the ground in Indiana.
3 I know what I see.

4 REPRESENTATIVE ANCHIA: So with your
5 testimony in Texas, when you're miles and miles away
6 -- how much deference should we give to your
7 testimony?

8 I'm just offering it up as an admonition,
9 because I think you might undermine your own testimony
10 by doing that.

11 TODD ROKITA: Hey, I told you at the very
12 beginning, I'm not here to say what I feel ought to be
13 here. I'm here to say what happened in Indiana.

14 REPRESENTATIVE ANCHIA: Okay. Can you
15 talk a little bit about the system in Indiana.

16 TODD ROKITA: Sure.

17 REPRESENTATIVE ANCHIA: In Texas, we've
18 seen little to no cases of voter impersonation. All
19 right. I've studied this for three sessions. Seen
20 people to go interview folks who allegedly did voter
21 impersonation. We haven't been able to find that.

22 At the same time, I chaired a subcommittee
23 that there is mail-in ballot fraud. Like when you do
24 see fraud, it's typically in mailing ballots, followed
25 maybe thereafter by official corruption by poll



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005738

TX_00031096

USA_00020620

workers or something like that.

I'm curious that in Indiana, you have a strict photo ID standard on in-person photo or in-person voters, but you have no a no-excuse system for mailing ballots. And I'm wondering how that might square with Texas where we do have instances of fraud with mail-in ballots that are wholly outside of the Fraser Bill that we have in front of us today, but the case where we don't have a lot of that evidence in terms of voter impersonation.

We're trying to -- let's say, how did you deal with that in Indiana? You don't even have to be a senior or disabled in Indiana to do mail-in ballots, right?

So how do you deal with, especially in light of your comment that with photo ID, it's harder to cheat?

TODD ROKITA: Well, first, I'd say you've been given bad information.

Indiana is not a no-excuse absentee voting state.

REPRESENTATIVE ANCHIA: Okay.

TODD ROKITA: You have to have the excuses, boxes that you fill out.

REPRESENTATIVE ANCHIA: What are those?



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005739

TX_00031097

USA_00020621

1 TODD ROKITA: I'm going to have to go
2 through them again.

3 You have to be over the acreage of 65.
4 You have to be out of the county the entire time the
5 polls are open or at work the entire time the polls
6 are open.

7 It could be a person with disabilities.
8 Those kind of reasons.

9 And we, in fact, did have reforms to
10 mail-in absentee process as well, it's just that the
11 papers weren't interested in that.

12 REPRESENTATIVE ANCHIA: Did you include a
13 photo ID standard for mail-in?

14 TODD ROKITA: We had a companion bill that
15 went with the Photo ID Bill. But it would be
16 academically dishonest for us to argue on one hand you
17 need a photo ID so that when you show up to the poll,
18 you can show that you are who you say you are and try
19 to do the sale thing with mail-in.

20 Because if you don't have a face with a
21 photo, the purpose of the photo is moot now.

22 So of course, we didn't require a photo be
23 put in there but we had a companion bill that no one
24 wrote about. And that got passed that now made when
25 you checked those boxes that I just mentioned, under



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005740

TX_00031098

USA_00020622

1 penalty of perjury, so now a prosecutor has something
2 to go on.

3 REPRESENTATIVE ANCHIA: Can you tell me
4 real quickly what those boxes are.

5 TODD ROKITA: The 65 years or older. The
6 out of county.

7 REPRESENTATIVE ANCHIA: So the exemption
8 boxes?

9 TODD ROKITA: The exemption boxes, yeah.

10 REPRESENTATIVE ANCHIA: Okay.

11 TODD ROKITA: And then if you're a
12 third-party and you're turning in absentee-ballot
13 application you have to fill in the Affidavit as to
14 who you are, where you got these applications, what
15 your role in all of this is under the penalty of
16 perjury again, so the prosecutor has something to go
17 on.

18 And then we made election nearing in front
19 of someone with an absentee-ballot a felony, which it
20 hadn't been in Indiana.

21 So we did take measures, again, not photo
22 ID measures because they don't take make academic
23 sense, but we did make measures.

24 REPRESENTATIVE ANCHIA: One of the things
25 we're looking at in the state is also requiring that



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005741

TX_00031099

USA_00020623

1 anybody who handles mail-in ballots become deputized.
2 Have you guys gone there in Indiana?

3 TODD ROKITA: We thought about it, and
4 still by adjusting and it trying to figure out if that
5 would make sense in the state.

6 REPRESENTATIVE ANCHIA: It's one bill that
7 I filed.

8 TODD ROKITA: And it's actually, something
9 Indiana had and got rid of. And so the question is:
10 Do you go back to that or not and that's what we're
11 debating?

12 REPRESENTATIVE ANCHIA: Okay. And just to
13 reiterate your testimony on the questioning from
14 Chairman Smith: You're unaware --

15 CHAIRMAN TODD SMITH: Representative
16 Anchia, we've got ten minutes left for people to ask
17 questions on the committee.

18 REPRESENTATIVE ANCHIA: I'm sorry?

19 CHAIRMAN TODD SMITH: Ten minutes left for
20 questions on the committee:

21 REPRESENTATIVE ANCHIA: For secretary
22 Rokita?

23 CHAIRMAN TODD SMITH: Yes.

24 REPRESENTATIVE ANCHIA: Thank you. And I
25 want to be respectful of everyone's time.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005742

TX_00031100

USA_00020624

1 How many voters in Indiana were forced to
2 cast provisional ballots because they were not deemed
3 to have adequate ID? Our recollection is it's your
4 testimony you don't know.

5 TODD ROKITA: I don't know, and
6 antidotally, it's a very low number.

7 REPRESENTATIVE ANCHIA: Did you commission
8 a study of that? Did you think that that was
9 important, maybe, to study that number and figure out
10 how many people?

11 TODD ROKITA: No. Because we operate an
12 800 election line on and around election day and we
13 just didn't see it being an issue.

14 So if we saw it popping up on the phone
15 line and through other resources, we would have
16 probably commissioned one with you it was just a non
17 event.

18 REPRESENTATIVE ANCHIA: Have you reached
19 out to the 34 people in Marion County who were
20 allegedly disenfranchised in the court briefs that
21 were submitted? Did you inquire of that group of
22 people?

23 TODD ROKITA: You know, interestingly we
24 tried to, but the district clerk who was the same
25 clerk who put in that testimony at the appellate level



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005743

TX_00031101

USA_00020625

1 would not give us access to the names.

2 REPRESENTATIVE ANCHIA: And did you try an
3 Open Records Request?

4 TODD ROKITA: No.

5 REPRESENTATIVE ANCHIA: Okay.

6 TODD ROKITA: An Open Records Request
7 might be problematic because you might get -- you
8 might get the names, but the voter still has
9 superseded the ballot. So it's not like we could have
10 gone at the time.

11 REPRESENTATIVE ANCHIA: But if you had
12 input into the address, you might be able to go --

13 TODD ROKITA: But the point being, I don't
14 know that that's public record. I'm not sure that it
15 is because you want to protect the secrecy of the
16 ballot.

17 Me, it's one thing, but you open a
18 slippery slope up to overzealous campaigns in that
19 first days after election trying to harangue people
20 into coming in and we are very protective of the
21 people's privacy.

22 CHAIRMAN TODD SMITH: Representative
23 Anchia, I've got to move to other members asking
24 questions. I'm going to have to cut it off.

25 REPRESENTATIVE ANCHIA: Thank you,



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005744

TX_00031102

USA_00020626

1 Mr. Chair.

2 If I have additional questions, can I
3 submit those in writing?

4 CHAIRMAN TODD SMITH: Sure. And it might
5 be helpful, members of the committee, whenever we
6 finish a witness, if anybody would, kind of, raise
7 their hand if you wish to ask questions, that would
8 give me some sense of how many people wish to.

9 Representative Brown.

10 REPRESENTATIVE BROWN: Thank you.

11 Mr. Secretary, you mentioned that you had
12 a companion bill. So this was in the same session you
13 tried to address the mail-in ballots, as well?

14 TODD ROKITA: Yes, and that bill passed.

15 REPRESENTATIVE BROWN: Both of them
16 passed?

17 TODD ROKITA: Yes.

18 REPRESENTATIVE BROWN: But you don't have
19 such you see we don't have such a companion bill.
20 It's a bit late in our session to address the mail-in
21 ballot. So, right now, do you have any suggestions
22 for us addressing mail-in issue or do you see us
23 proceeding in just trying to come out with a good
24 Photo ID Bill at this session and address the mail-in
25 ballot issue later?



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_005745

TX_00031103

USA_00020627

1 TODD ROKITA: Are you a no-fault state or
2 do you have the boxes, as well, that you fill out when
3 you make an absentee-ballot request? Do you have a
4 special reason to vote absentee-ballot by mail?

5 REPRESENTATIVE BROWN: Yes.

6 TODD ROKITA: Yes, I would do the same
7 things that we did, if you can. But it's not
8 necessarily related to photo ID. Photo ID doesn't
9 stand on its own, but I think those measures that we
10 implemented that I already outlined in my testimony
11 would be a good start.

12 CHAIRMAN TODD SMITH: You can you
13 summarize those again. What are they?

14 TODD ROKITA: That the application, the
15 whole form, is under oath. The whole reason you put
16 down for needing an absentee-ballot. So if you lied
17 there, at least, a prosecutor can go after penalties
18 of perjury.

19 No. Two, that election nearing in front of
20 someone with an absentee-ballot is a felony.

21 And the third one, if you're a third-party
22 turning in an absentee-ballot applications you, too,
23 have to sign an Affidavit as to who you are, what your
24 role is, how you came upon these applications.

25 CHAIRMAN TODD SMITH: Thank you.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005746

TX_00031104

USA_00020628

1 Representative Brown.

2 REPRESENTATIVE BROWN: We've gotten a lot
3 of feedback from people saying well, you know, a lot
4 of the fraud takes place in middle America and so on.

5 But I feel like at this point we're taking
6 a very baby steps in securing our elections just by
7 addressing the photo ID at this point we can address
8 the other later.

9 TODD ROKITA: It's a huge confidence
10 building step.

11 REPRESENTATIVE BROWN: I agree thank you
12 very much, much.

13 CHAIRMAN TODD SMITH: Representative
14 Heflin.

15 REPRESENTATIVE HEFLIN: Thank you. Real
16 quickly: On your provisional ballot -- when they come
17 in and they don't have the proper ID, that it's marked
18 special provisional ballots, and they have ten days to
19 cure -- is that what I understood you to say.

20 TODD ROKITA: That's right.

21 REPRESENTATIVE HEFLIN: And how many
22 people came back and actually cured their ballots? Do
23 you know?

24 TODD ROKITA: Again, we don't have
25 statewide data on that, but there were a lot of other



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005747

TX_00031105

USA_00020629

1 reasons forecasting our provisional ballot.

2 REPRESENTATIVE HEFLIN: Right.

3 TODD ROKITA: But not having a photo ID is
4 an extreme minority reason.

5 REPRESENTATIVE HEFLIN: So that was a
6 small reason for provisional ballots?

7 Okay. And the super centers -- the voting
8 centers -- are they all real time computers so if they
9 vote, John Doe in your one precinct and you're two
10 precincts over, and John Doe votes again -- does that
11 flag --

12 TODD ROKITA: Yeah. The electronic poll
13 votes are tied into our statewide voter file. So when
14 Todd Rokita, because of the kind of guy I am, knows
15 when I try to vote again I'll get stopped.

16 But the machine, sir, the voting machines,
17 are not, this is not Internet voting of any kind.

18 REPRESENTATIVE HEFLIN: Okay. And also,
19 do college kids get to use their college ID or do they
20 have to go --

21 TODD ROKITA: No. Indiana requires or
22 federal ID, if a college person had a passport, that
23 would work.

24 But some of our college students have come
25 in with California driver's license, for example, or



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005748

TX_00031106

USA_00020630

1 Michigan or wherever. And based on that piece of ID,
2 we do not let them vote because that's pretty good
3 evidence that they're residents of Michigan or
4 California and should be voting there.

5 REPRESENTATIVE HEFLIN: Okay. Now, as to
6 the educational requirements: Did you have Voter
7 Registration driver's? Helping people get them
8 prepared?

9 TODD ROKITA: We've got education
10 outreach. We go to the State Fair. We go to what we
11 call Indiana Black Expo.

12 REPRESENTATIVE HEFLIN: You took it to the
13 neighbors?

14 TODD ROKITA: It was a partnership, I
15 mentioned. That's key. One office can't get out like
16 that. You have got to develop a coalition of the
17 willing and unwilling.

18 REPRESENTATIVE HEFLIN: And as to your
19 Indiana ID -- did the DPS -- is that provided by your
20 Department of Motor Vehicles?

21 TODD ROKITA: Yeah. It's free of charge.

22 REPRESENTATIVE HEFLIN: And do they go
23 like to nursing homes and senior centers and help
24 those people get those IDs.

25 TODD ROKITA: We have a mobile DMV that



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005749

TX_00031107

USA_00020631

1 does go out. Yeah, they do do those things, actually.

2 REPRESENTATIVE HEFLIN: And do you know
3 how much that costs?

4 TODD ROKITA: No. It's in their regular
5 course. They go out anyway. So there's no additional
6 costs.

7 I would also say that if one of the
8 assisted living facilities is a precinct, that is an
9 exception. Because that is, again, remember I said,
10 it's narrow. So it's an exception there that said
11 well, this is an example of people who probably never
12 leave the ground and even for voting, it's a precinct
13 so they're an exception.

14 REPRESENTATIVE HEFLIN: I pass.

15 CHAIRMAN TODD SMITH: Representative
16 Bohac.

17 REPRESENTATIVE BOHAC: Mr. Secretary,
18 welcome to Texas. I had a couple of questions for
19 you. One of them is it's a question it happens in an
20 instance and the act is disbursed. I assume you were
21 talking about voter impersonation and that's why it's
22 so tricky at the catch. Is that the right context in
23 which you were talking about that particular --

24 TODD ROKITA: Yes. I hope I didn't leave
25 another one. But that's what was I meant.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_005750

TX_00031108

USA_00020632

1 REPRESENTATIVE BOHAC: I assume that most
2 of the arguments here, you actually heard in your
3 state.

4 TODD ROKITA: Yes.

5 REPRESENTATIVE BOHAC: And now that you
6 all are into four years of Voter ID.

7 TODD ROKITA: And nine elections.

8 REPRESENTATIVE BOHAC: What's the kind of
9 the sense of both the wrecks and Democrats? Where are
10 you all today? Are people very divided over it or is
11 there a sense that it's been relatively successful?

12 TODD ROKITA: You know, I think that
13 there's some diversions visions, but I look at Dallas
14 paper and I see a quote from Senator Erline Rogers.
15 She's from my home county, which includes Gary,
16 Indiana.

17 Now, she and I probably couldn't agree
18 politically on what color the sky is. I think she's a
19 wonderful woman and we get along personally fine.

20 Her quote is, for a county such as mine
21 and that is always occurred of Voter ID, no one can
22 make those charges anymore.

23 And I don't know if she realizes this or
24 not, but that was one of my points in the beginning.
25 It levels the playing field. It takes away the



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005751

TX_00031109

USA_00020633

1 arguments that I think so many feel about being
2 disenfranchised.

3 Well, if everyone comes with the required
4 document, there is no real reason to deny them the
5 right to vote. So it actually increases the franchise
6 in that regard. No one can make up the politically
7 zealous excuse or even racist excuse to my people from
8 disenfranchised.

9 They have the document. Get out of their
10 way.

11 CHAIRMAN TODD SMITH: Well, I'll leave
12 this as just a comment: I can really never put my
13 hands on my Voter Registration Certificate.

14 TODD ROKITA: No one can.

15 CHAIRMAN TODD SMITH: So to me, voting
16 with an ID is actually more convenient because I
17 always have that with me. So --

18 TODD ROKITA: Indiana requires a photo,
19 and if nothing else but a photo and the other things I
20 listed here in this paper for you, Mr. Chairman, and
21 the members will do.

22 I think you're on a slippery slope to have
23 these non-photo, quote/unquote, exceptions.

24 CHAIRMAN TODD SMITH: Quick question: To
25 what extent are you familiar with the varying



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005752

TX_00031110

USA_00020634

1 different studies that are out there on the effect of
2 your particular legislation on voter turn-out?

3 TODD ROKITA: To what extent am I
4 familiar? I think I'm familiar with all of them.

5 CHAIRMAN TODD SMITH: My understanding is
6 that there's one from the Brennan Center that says,
7 you know, they think they have determined that voter
8 turn-out was depressed by 2.9 percent.

9 Am I representing that correctly?
10 Something in that neighborhood?

11 TODD ROKITA: I'm not sure what they said.
12 I know they're on the very liberal side of the
13 spectrum engaged in this partially.

14 CHAIRMAN TODD SMITH: I understand.
15 And there's a Heritage Foundation study
16 which indicates no effect whatsoever, right? Is that
17 your understanding?

18 TODD ROKITA: Right. And there's the
19 University of Missouri study.

20 CHAIRMAN TODD SMITH: And there's from the
21 Political Science Magazine, University of Delaware,
22 two professors from the University of Delaware, one
23 professor from the University of Nebraska that has
24 just come out in January of this year, which findings
25 suggest that Voter ID laws have had no systematic



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005753

TX_00031111

USA_00020635

1 effect on voter turn-out thus far.

2 Are you familiar with that report?

3 TODD ROKITA: I was familiar with the new
4 one.

5 CHAIRMAN TODD SMITH: Okay. You know.

6 And in looking at all these reports, you
7 know, forgive me if -- my a little skeptical, frankly,
8 about the allegations that there is any material
9 suppression of voters, but I am also a little
10 skeptical about the allegations of this single factor
11 is a result of the dramatic inspect creases in voting.

12 My reasoning of the evidence suggests to
13 me that there really isn't any reason to believe that
14 either of those is true in terms of evidence and in
15 terms of studies and in terms of the evidence that is
16 available to this committee.

17 Would you disagree with that assessment or
18 analysis?

19 TODD ROKITA: I would disagree with it
20 because of the things I said earlier. Just because
21 there aren't prosecutions, which is like folks like
22 the Brennan Center and others try to rely on, doesn't
23 mean that the fraud isn't there.

24 CHAIRMAN TODD SMITH: No. No.

25 What I'm getting at is the extent to which



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005754

TX_00031112

USA_00020636

1 this legislation effects turn-out. That's the
2 question I'm focusing on.

3 TODD ROKITA: I think it increases
4 turn-out.

5 CHAIRMAN TODD SMITH: And that's based on
6 the fact that in Indiana, your turn-out went up rather
7 than down?

8 TODD ROKITA: Right.

9 CHAIRMAN TODD SMITH: You know, I could
10 argue that that's like saying, you know the rooster
11 crows, the sun comes up, therefore the rooster caused
12 the sun to come up.

13 You know, in other words, there are a lot
14 of variables you know, the weather, the number of hot
15 local races. Lots of variables that could explain,
16 you know, what turn-out. And unless you really looked
17 at it from an academic standpoint and isolated that
18 particular variable, you really don't have much
19 information in that regard.

20 And what I'm saying is: My sense of the
21 total of the totality of the studies is that both
22 sides are guilty of really speculating without any
23 substantiating evidence to suggest that this has any
24 meaningful impact on turn-out at all, one way or the
25 other.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005755

TX_00031113

USA_00020637

1 TODD ROKITA: I disagree.

2 CHAIRMAN TODD SMITH: Okay. What you
3 believe is that it actually enhances turn-out?

4 TODD ROKITA: Well, what I believe is that
5 one study out there did isolate all variables and
6 compare apples to apples.

7 CHAIRMAN TODD SMITH: And which one is
8 that?

9 TODD ROKITA: University of Missouri, the
10 Moylo, M-o-y-l-o, and the that's the one that found
11 voter turn-out in Indiana went up two percent that we
12 referenced earlier.

13 CHAIRMAN TODD SMITH: Okay. And so what
14 we've got, then is one study that says it went up two
15 percent. One study that said it went down two
16 percent. And a recent study by these gentlemen --

17 TODD ROKITA: I'm not as familiar with
18 that one.

19 CHAIRMAN TODD SMITH: That indicate that
20 it didn't go up at all.

21 But, again, tell me if I'm correct: My
22 understanding of the studies is that isn't the Brennan
23 society comparing a Lucy-goosy system, where you
24 literally show up at the polls, say, I'm Todd smith.

25 If you're on the voter registration list,



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005756

TX_00031114

USA_00020638

1 they let you vote to the most progressive, as you
2 would put it version of photo identification
3 legislation in this comparison that's being made; is
4 that correct?

5 TODD ROKITA: When I say it's not apples
6 to apples, that is what I mean.

7 I spent now -- it's been a year or so
8 since I looked at the Brennan Center study.

9 CHAIRMAN TODD SMITH: I believe that's
10 what we would all agree is a progressive or liberal
11 think tank's conclusion is that you compare the least
12 burdensome system out there, that is vermont.

13 Where you walk in, say your name. And if
14 you're on the poll, they let you vote. You don't have
15 to produce any identification. To the most
16 progressive as you put it photo identification
17 requirement. And they concluded that there was a
18 2.9 percent reduction in turn-out.

19 What we're talking about here in the State
20 of Texas is the difference between a law which already
21 requires you to provide some sort of identification
22 and a law which simply authors the kind of
23 identification that you have to provide for a very
24 small segment of the community that does not at this
25 time, subject to free identification alternatives have



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005757

TX_00031115

USA_00020639

1 a photo identification requirement.

2 You agree that there is not any evidence
3 or any study that would indicate in any way that that
4 sort of a change in the law would in any way adversely
5 affect any kind of voter turn-out, minority, poor,
6 elderly or otherwise?

7 TODD ROKITA: I don't know of one.

8 CHAIRMAN TODD SMITH: Okay. Thank you.

9 TODD ROKITA: Thank you.

10 REPRESENTATIVE ANCHIA: Mr. Chairman.

11 CHAIRMAN TODD SMITH: Yes. I'd like to
12 let --

13 REPRESENTATIVE ANCHIA: I'd just like to
14 ask one question. I'd just like a couple, if you
15 don't mind.

16 CHAIRMAN TODD SMITH: All right.

17 REPRESENTATIVE ANCHIA: I know, Todd,
18 there's been a characterization of the Brennan Center
19 as liberal and, I guess, the Brennan Center is NYU Law
20 School and is housed at the NYU Law School. Do you
21 know that for a fact?

22 TODD ROKITA: Do you know that for a fact?

23 REPRESENTATIVE ANCHIA: I believe it's the
24 Brennan Center --

25 TODD ROKITA: Then I believe you.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005758

TX_00031116

USA_00020640

1 REPRESENTATIVE ANCHIA: I'm not trying to
2 be flip. I'm really asking you: There's a
3 characterization by both the Chairman and by you that
4 this is a liberal think tank.

5 TODD ROKITA: So let me just say yes. I
6 do think it's liberal.

7 REPRESENTATIVE ANCHIA: Is it housed at
8 New York University Law School? Do you know that?

9 TODD ROKITA: I think it is but I'm not
10 sure.

11 REPRESENTATIVE ANCHIA: Are you elected or
12 appointed?

13 TODD ROKITA: Elected.

14 REPRESENTATIVE ANCHIA: In what party?

15 TODD ROKITA: Republican.

16 REPRESENTATIVE ANCHIA: And do you
17 consider yourself conservative or liberal?

18 TODD ROKITA: I consider myself
19 conservative.

20 REPRESENTATIVE ANCHIA: Okay. Since we're
21 placing labels, I thought I'd like the secretary
22 himself identified.

23 I want to ask you a little bit about some
24 real-life cases in Indiana where people may not have
25 been able to vote.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005759

TX_00031117

USA_00020641

1 You said you didn't know if the 34 folks
2 from Marion County were disenfranchised. You didn't
3 know one way or the other if they had been able to
4 vote a regular ballot.

5 Is there a threshold where we think it's
6 material if one American who's dually registered is
7 unable to vote? Is there a threshold? Is it five
8 when you believe it's material or a problem, that it's
9 not an issue? When does it become an issue? People
10 not being able to vote when they are otherwise dually
11 registered and eligible? When does it become an
12 issue?

13 TODD ROKITA: Well, I don't know if you
14 can put an exact number to it. I think the state --

15 REPRESENTATIVE ANCHIA: One, is that a bad
16 result if one is disenfranchised?

17 TODD ROKITA: Well, I think the state,
18 again, this is probably the third time I'm saying it,
19 as the Supreme Court indicated have a very real
20 interest in putting parameters on their elections.

21 REPRESENTATIVE ANCHIA: Right.

22 TODD ROKITA: So this state registers
23 voters. So if someone is otherwise eligible but just
24 didn't register, the state excludes them.

25 REPRESENTATIVE ANCHIA: That's right.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005760

TX_00031118

USA_00020642

1 TODD ROKITA: So if you're going to ask a
2 question like that. --

3 REPRESENTATIVE ANCHIA: If you're dually
4 registered --

5 TODD ROKITA: Then you must be arguing
6 that, you know, registration can disenfranchise some
7 folks, and, in fact, it does. If you can't register,
8 then you can't vote.

9 REPRESENTATIVE ANCHIA: Well, it makes it
10 harder to register.

11 TODD ROKITA: It's a kind of theory as the
12 Supreme Court has said, states can use to apply these
13 parameters to the process.

14 CHAIRMAN TODD SMITH: Let me just say,
15 members, that we've got several witnesses that are on
16 early flights and we're not going to be able to hear
17 from them unless we move this along.

18 And I'm getting from both sides to go
19 beyond the allotted time. And if we do that.

20 REPRESENTATIVE ANCHIA: This is such a
21 unique opportunity, though, Mr. Chairman.

22 CHAIRMAN TODD SMITH: We're going to hear
23 from fewer people.

24 Representative Brown says she has one
25 question. I'm going to let her ask it.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005761

TX_00031119

USA_00020643

1 REPRESENTATIVE ANCHIA: Can I finish my
2 last question, Mr. Chairman? I just have one more
3 question.

4 CHAIRMAN TODD SMITH: Okay. Be quick.

5 REPRESENTATIVE ANCHIA: There were 12 nuns
6 at the St. Mary's convent in Southbend who were
7 eligible to vote but were turned away because they had
8 expired photo ID in many cases. They brought their
9 passports.

10 TODD ROKITA: Passports from the 1950s.

11 REPRESENTATIVE ANCHIA: Okay. They were
12 expired. But otherwise it was their passport. That's
13 not controverted, right?

14 TODD ROKITA: I don't know if it was. I'm
15 sure it was.

16 REPRESENTATIVE ANCHIA: It doesn't seem
17 like it's controverted in the record. Is that a bad
18 result? Is that say bad public policy?

19 TODD ROKITA: No. That was the right
20 result.

21 And I can say this, and I know you're
22 Roman Catholic. I know that Raphael. I went to eight
23 years' of Catholic School. And if there's one rule
24 that I was taught, even at the risk of getting a ruler
25 thrown down on me is that you follow the law. That



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005762

TX_00031120

USA_00020644

1 the law applies to everyone, whether you're a nun or
2 not.

3 Those nuns weren't disenfranchised. They
4 just didn't want to follow the law.

5 REPRESENTATIVE ANCHIA: And you think that
6 produced a good result?

7 TODD ROKITA: Absolutely.

8 REPRESENTATIVE ANCHIA: Okay. Thank you,
9 Mr. Secretary.

10 CHAIRMAN TODD SMITH: Representative
11 Brown.

12 REPRESENTATIVE BROWN: There is one.

13 CHAIRMAN TODD SMITH: One question. Make
14 it a good one.

15 REPRESENTATIVE BROWN: All right. There's
16 one thing that I think has been neglected today, and I
17 wish you would close with just addressing the fact
18 that the Indiana bill did go before the Supreme Court
19 and was upheld at that point.

20 Can you just give a quick statement about
21 that and the finding.

22 TODD ROKITA: Absolutely. The Supreme
23 Court said this was a long overdue reform and that the
24 states had an interest in putting guardrails and
25 parameters around the process of their election so



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005763

TX_00031121

USA_00020645

1 that they can could have a result that is fair,
2 accurate and that people could believe in.

3 REPRESENTATIVE BROWN: And that was about
4 what numbers on that decision?

5 TODD ROKITA: 6 to 3.

6 REPRESENTATIVE BROWN: That's right. 6 to
7 3.

8 Thank you so much.

9 TODD ROKITA: Thank you. It's a pleasure
10 to be here.

11 CHAIRMAN TODD SMITH: Thank you,
12 Secretary. We do very much appreciate the you taking
13 the time to come down and subject yourself to this.

14 TODD ROKITA: It's my honor. Thank you.

15 REPRESENTATIVE VEASEY: Mr. Chairman, I
16 did want to make one statement. I didn't have any
17 questions but I wanted to clarify.

18 You had said that the Carter-Baker
19 Commission was in favor of Voter ID. They wanted to
20 make a clarification on some of the comments that
21 would be misconstrued after the report was released.

22 And so they wrote an editorial saying,
23 quote, until we have universal registration, we cannot
24 make having such an ID a condition of voting.

25 So I did want to make sure that that was



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005764

TX_00031122

USA_00020646

1 clarified for everybody in the audience and the
2 members of the committee.

3 REPRESENTATIVE BROWN: And that came from
4 who?

5 CHAIRMAN TODD SMITH: It came from Jimmy
6 Carter and James Baker.

7 TODD ROKITA: Jimmie Carter and Secretary
8 Baker.

9 CHAIRMAN TODD SMITH: It's an editorial
10 and it illustrates what's in the report, which is that
11 they believe it's important to expand access and
12 security at the same time. They believing both are
13 important. That's the conclusion and I agree with
14 them. I think everybody on the committee does.

15 The next witness is Diane Trautman, who is
16 a professor of education and is going to testify
17 against Senate Bill 362. She's from Harris County.

18 Please identify yourself, your name and
19 who you Representative on represent on the record.

20 MS. TRAUTMAN: Good afternoon. And thank
21 you for allowing me to testify today.

22 My name is Diane Trautman. I live in
23 Humble, Harris County, Texas, where my husband and I
24 have raised three children.

25 After working in the banking industry I



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005765

TX_00031123

USA_00020647

1 changed careers to teach at the middle and high school
2 level, became a principal and then a college
3 professor. Teaching classes in leadership and ethics.

4 As my fellow Harris County Representative
5 Allen and Representative Bohac know, I was the
6 democratic nominee for Harris County, Texas Tax
7 Assessor in 2008.

8 As a candidate I did my best to learn as
9 much as possible about the election-related
10 responsibilities involved in being a voter registrar.
11 And although I didn't quite get 50 percent of the
12 vote, my interests in free and fair elections is the
13 reason I'm here today. Not campaign politics or
14 partisanship.

15 Elections must be free from fraud and
16 intimidation. As we encourage full participation by
17 every citizen who is eligible to vote, that should not
18 be a Democratic or a Republican value.

19 Having taught ethics and leadership
20 classes to young people, I abhor the cynicism bred by
21 fraud and cheating. But I am concerned that a
22 proposed Voter ID legislation went do a thing to stop
23 fraud and it could make it harder for many Texans to
24 vote.

25 The question: We have problems in our



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005766

TX_00031124

USA_00020648

1 election system that need to be addressed. After
2 butterfly, hanging chads, vote caging and the lack of
3 a verifiable paper trail for electronic machines, many
4 have lost confidence in our system.

5 But no one has lost confidence because of
6 voter impersonation. The only kind of alleged fraud
7 that would be addressed by a photo ID requirement.
8 Because it is so rare that it hardly exists.

9 To my knowledge, there has not been a
10 single case of voter impersonation that exists in
11 Harris County. And claims made by our tax assessors
12 office that numerous dead people and non citizens have
13 actually voted in Harris County, have proven when
14 scrutinized to be greatly exaggerated, due to donor
15 matching problems and clerical error.

16 For example, last year this committee was
17 told under oath by former Tax Assessor Collector Paul
18 Betencort that in Harris County there were 381 iron
19 clad cases of Voter ID, 315 non-citizens trying to
20 commit Voter ID, and 22 non-citizens who had voted.

21 However, there has only been one attempt
22 at voter fraud prosecution in Harris County in the
23 last eight years. And this committee's interim report
24 found that of the 22 non-citizens who had allegedly
25 voted, one person could be confirmed as having voted



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005767

TX_00031125

USA_00020649

1 but, and this is important, only after he was issued a
2 registration card by the county even though he did not
3 check he was a citizen on his application.

4 Another woman voted once before she became
5 a citizen. Many of the others were, in fact,
6 citizens.

7 As a taxpayer I am concerned that our Tax
8 Assessor's Office had been coming to Austin for years
9 on the taxpayers' dime, testifying as experts with
10 inflated claims as aggressive advocates with this
11 Voter ID agenda, when they couldn't even do their own
12 job back home.

13 With all due respect, if this committee is
14 really concerned about the integrity of elections,
15 please quit trying to solve a phantom voter
16 impersonation problem and do something about the
17 thousands of eligible voters whose names weren't on
18 the voter rolls in Harris County when voting began
19 last year.

20 Those are real numbers, of real people
21 being denied the right to vote. Unfortunately, these
22 problems will be even worse if a Voter ID bill becomes
23 law.

24 On October 20, 2008, the first day of
25 early voting, the Houston Chronicle reported that more



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005768

TX_00031126

USA_00020650

1 than 13,000 Voter Registration applications in Harris
2 County had not yet been processed, which meant these
3 newly registered voters were not on the voter list at
4 the counties 36 early voting locations.

5 No other major Texas County had that
6 problem. These Voter Registration problems relate
7 directly to the proposed Voter ID bill because these
8 more restrictive requirements will lead to more
9 provisional ballots being cast by voters who do not
10 present required ID.

11 The county of provisional ballots was also
12 a huge black eye for Harris County and it wasn't a
13 partisan issue.

14 A lifelong Republican chaired the ballot
15 board, and he said the counting of provisional ballots
16 was delayed by slow, faulty work by the Tax Assessor's
17 Office, who delivered the bulk of the ballots, some of
18 which appeared altered on the final day of the seven
19 days the board had to do its work.

20 If the integrity of elections is what we
21 are really discussing today, please consider what just
22 happened in our state's largest county before you pass
23 a law that would place more bureaucratic barriers
24 between Texans and the ballot box and how that law
25 would impact a ballot for bureaucracy that isn't even



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005769

TX_00031127

USA_00020651

1 working today.

2 Instead of enacting are restrictive
3 measures that keep people from voting, let's keep our
4 election system up to 21st century standards to make
5 voting both easier and more secure.

6 Taxpayers have a right to expect, at
7 least, that much from our government.

8 CHAIRMAN TODD SMITH: All right. Thank
9 you very much.

10 MS. TRAUTMAN: Thank you.

11 CHAIRMAN TODD SMITH: You talk about the
12 fact that -- you agree that voter fraud is a problem.

13 MS. TRAUTMAN: I think that it is a
14 serious issue, and I think it should be prosecuted to
15 the full extent of the law, if we could just find some
16 evidence where it happens.

17 CHAIRMAN TODD SMITH: No. I think your
18 position is that voter fraud occurs more with
19 absentee-ballots than it does impersonation.

20 But is it your position that voter fraud
21 is not even a problem in our state?

22 MS. TRAUTMAN: I don't think there's any
23 evidence for it.

24 CHAIRMAN TODD SMITH: You don't think
25 there's any evidence of voter fraud in our state of



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_005770

TX_00031128

USA_00020652

1 any kind?

2 MS. TRAUTMAN: No, I don't. The record
3 does not show that.

4 CHAIRMAN TODD SMITH: You don't think that
5 there's evidence that even voter fraud is on
6 absentee-ballots?

7 MS. TRAUTMAN: I'm not aware of any have.

8 CHAIRMAN TODD SMITH: I thought earlier in
9 your testimony you had indicated that, in fact, that's
10 where you thought the voter fraud was --

11 MS. TRAUTMAN: No.

12 CHAIRMAN TODD SMITH: With regard to
13 absentee-ballots --

14 MS. TRAUTMAN: No. Not at all.

15 CHAIRMAN TODD SMITH: Okay. So your
16 testimony is you don't think we have a voter fraud
17 problem either with regard to absentee-ballots or with
18 regard to impersonation?

19 MS. TRAUTMAN: No. I don't see any
20 evidence in the record.

21 CHAIRMAN TODD SMITH: Okay. I
22 misunderstood your earlier testimony.

23 Do you think it's easy to prosecute voter
24 fraud?

25 MS. TRAUTMAN: Well, there haven't been



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005771

TX_00031129

USA_00020653

1 any prosecutions so we wouldn't know.

2 CHAIRMAN TODD SMITH: Okay. So you don't
3 have any opinion on whether or not it is easy to
4 identify and prosecute that particular crime?

5 MS. TRAUTMAN: I think we have to have
6 evidence first.

7 CHAIRMAN TODD SMITH: Okay. I just want
8 to quickly run through some stuff since you don't
9 think there's any evidence of voter fraud at all.

10 We have an indication, and again, some of
11 this is impersonation, some of it is not.

12 Progresso case -- I believe, that's in the
13 Vice-Chairman's district, where there is an Affidavit
14 from an undocumented worker indicating that someone
15 had given him the Voter Registration card and asked
16 him to vote in their place.

17 We have an AG investigation, which
18 Representative Anchia may correctly indicate that did
19 not identify any particular in-person fraud, but which
20 did identify a man who voted twice in Starr County. A
21 woman who voted for a dead mother. A Council Member
22 in Port Lavaca who registered non-citizens.

23 We have indication that in Houston in
24 March of '08 primary, a dead woman voted in person
25 near her home. We have an Attorney General brief



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005772

TX_00031130

USA_00020654

1 where there was prior testimony of witnesses in Texas
2 about voter fraud.

3 We have in Harris County, one occurred in
4 your county, who registered hundreds of voters,
5 changed their addresses and then voted for them on
6 election day.

7 We have stolen registration cards. A cry
8 that only makes sense if one is intending to
9 impersonate voters allegedly by those who brought that
10 up.

11 REPRESENTATIVE ANCHIA: We have testimony
12 to all that that you're quoting now?

13 CHAIRMAN TODD SMITH: This is from the
14 documentation that I reviewed prior to the hearing.
15 I'm giving her the chance to respond to that to any
16 extent that she's familiar with it.

17 REPRESENTATIVE ANCHIA: I just want to
18 make sure that you're not stating that the cases out
19 of Progresso are confirmed in any way.

20 CHAIRMAN TODD SMITH: I stated what I
21 found in the documentation that I reviewed prior to
22 the testimony today in giving all the witnesses an
23 opportunity to testify on it that an individual has
24 signed an Affidavit stating that he is an undocumented
25 work they're was asked, handed a Voter Registration



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005773

TX_00031131

USA_00020655

1 card and was asked to vote for someone at the polls.

2 REPRESENTATIVE ANCHIA: And you'll
3 stipulate that that's still under investigation?

4 CHAIRMAN TODD SMITH: There's not been a
5 trial.

6 REPRESENTATIVE ANCHIA: Nor has there been
7 an indictment to my knowledge.

8 CHAIRMAN TODD SMITH: You know I'm
9 representing what I have read in the press stories
10 from that area, representing the state of the
11 evidence. And I'm not done yet.

12 Michael Zorr -- all the things I'm
13 mentioning until I state otherwise, are from the
14 Attorney General brief.

15 Michael Zorr voted two times in 2006 in
16 two different locations.

17 James Scherr, an attorney.

18 DIANE TRAUTMAN: Who is that?

19 CHAIRMAN TODD SMITH: That one, I believe,
20 was in a different state.

21 DIANE TRAUTMAN: Okay.

22 REPRESENTATIVE BROWN: She's from Harris
23 County.

24 CHAIRMAN TODD SMITH: I understand.

25 James Scherr, an attorney casts two



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005774

TX_00031132

USA_00020656

1 ballots several times in 2000, and 2002. One of the
2 potential dozens of double voting cases that occurred
3 in Kansas City.

4 Andre Elizme, died in 1997 and voted in
5 2000.

6 The Atlanta newspapers said between 1980
7 and 2000, more than 5,000 people voted after their
8 deaths.

9 In the valley in Texas, a voter
10 registration card was issued to imaginary voters and
11 given to real people. Those are the evidence that's
12 presented in the Attorney General's report.

13 The Baker-Carter Commission talks about
14 the November of 2004, the Washington Governor's Race,
15 ex-felons and the dead voted.

16 They talk about it in Milwaukee, there
17 were, this is the Carter-Baker Commission, 200 felons.

18 REPRESENTATIVE HEFLIN: Mr. Chairman, I'd
19 like to respectfully interrupt again: Is this lady --
20 does she have knowledge of all this?

21 DIANE TRAUTMAN: I do not.

22 REPRESENTATIVE HEFLIN: Is she testifying
23 to all this?

24 DIANE TRAUTMAN: I do not.

25 REPRESENTATIVE HEFLIN: Is there a witness



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005775

TX_00031133

USA_00020657

1 that could answer these questions?

2 CHAIRMAN TODD SMITH: I hope so. If I
3 laid this stuff out there, hopefully they will have
4 the opportunity, to extent that they're familiar with
5 any of these cases, to do so, as the testimony
6 progresses.

7 REPRESENTATIVE HEFLIN: So I have to ask:
8 Are you testifying on your time or are you taking up
9 her time?

10 CHAIRMAN TODD SMITH: Well, I'm trying to
11 give all these witnesses an opportunity to respond to
12 these questions.

13 REPRESENTATIVE HEFLIN: I would ask that
14 her time be --

15 CHAIRMAN TODD SMITH: There has been
16 testimony from this witness that there is no voter
17 fraud.

18 REPRESENTATIVE HEFLIN: In her knowledge.
19 Her knowledge of Harris County.

20 CHAIRMAN TODD SMITH: All right. Well I'm
21 siting from the Carter-Baker Commission.

22 IN Milwaukee, 200 felons. 100 voted two
23 times. Others used fake name or address or voted in
24 the name of the dead.

25 4,500 more votes were casts than voters



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005776

TX_00031134

USA_00020658

1 listed.

2 The Carter-Baker Commission listed that
3 there's no evidence of extensive fraud in U.S.
4 elections or of multiple voting, but both occur and it
5 could affect the outcome of a close election.

6 While this is a quote, while the
7 commission is divided on the magnitude of the voter
8 fraud, with some believing it is widespread and others
9 believing it is minor, there is no doubt that it
10 occurs.

11 In closer disputed elections and there are
12 many, a small amount of fraud could make the margin of
13 difference.

14 I've got another page of information from
15 the January of '09 Elections Committee Interim Report
16 identifying a number of instances.

17 DIANE TRAUTMAN: Mr. Chairman, I ask:
18 Have any of these been prosecuted?

19 CHAIRMAN TODD SMITH: Well, there's, you
20 know --

21 DIANE TRAUTMAN: Because that's what I
22 would call voter fraud, if it's been prosecuted.

23 CHAIRMAN TODD SMITH: Okay. So if it
24 hasn't been prosecuted, then in your mind it didn't
25 occur?



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005777

TX_00031135

USA_00020659

1 DIANE TRAUTMAN: Obviously there is no
2 evidence or there's not enough evidence.

3 CHAIRMAN TODD SMITH: Okay. Members.
4 Representative Heflin.

5 REPRESENTATIVE HEFLIN: In Harris County,
6 are you aware of any cases that have been prosecuted
7 for voter impersonation?

8 DIANE TRAUTMAN: No, sir, I'm not.

9 REPRESENTATIVE HEFLIN: Okay. And that's
10 where you have knowledge of; is that correct?

11 DIANE TRAUTMAN: That's correct.

12 REPRESENTATIVE HEFLIN: Now, you're here
13 today testifying -- tell me again your background.

14 DIANE TRAUTMAN: Professor of education.

15 REPRESENTATIVE HEFLIN: Okay.

16 DIANE TRAUTMAN: And former candidate for
17 Harris County Tax Assessor.

18 REPRESENTATIVE HEFLIN: Okay. So you ran
19 for office? You watched the process? You're familiar
20 with the voting process in Texas?

21 DIANE TRAUTMAN: Yes, sir, we researched
22 quite a bit with the Harris County Tax Assessor. We
23 also researched the registrar.

24 REPRESENTATIVE HEFLIN: Now, I think in
25 your testimony you said there was one attempt to



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005778

TX_00031136

USA_00020660

1 prosecute and that was out of 15 non-citizens that
2 actually voted?

3 DIANE TRAUTMAN: Right.

4 REPRESENTATIVE HEFLIN: And those 15
5 non-citizens were actually issued a Voter Registration
6 card. Did I understand that correctly?

7 DIANE TRAUTMAN: That's correct.

8 REPRESENTATIVE HEFLIN: Okay. But there's
9 only -- and do you know the status of that
10 prosecution?

11 DIANE TRAUTMAN: It was dropped.

12 REPRESENTATIVE HEFLIN: Okay. So as to
13 the issue of voter impersonation, whether it's right
14 or wrong or whether that's what we need to fix today,
15 I would ask you: Do you believe that in Texas, that
16 we have a big issue with voter impersonation?

17 DIANE TRAUTMAN: I do not. I do, however,
18 believe we have more pressing problems with priorities
19 that we're facing that photo ID takes the time of --

20 REPRESENTATIVE HEFLIN: Now, would you
21 believe that one of the priorities might be more
22 training for election workers?

23 DIANE TRAUTMAN: Well, actually, I was
24 thinking about public school funding, actually was one
25 of the bigger priorities. But yes, we do a lot, a lot



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005779

TX_00031137

USA_00020661

1 more training.

2 REPRESENTATIVE HEFLIN: Okay.

3 DIANE TRAUTMAN: Actually, of the things
4 that were uncovered in the inconsistent practices that
5 were found by a non-partisan expert, according to
6 sworn depositions of employees who worked in the Tax
7 Assessor's Office, which have been provided to, at
8 least, one legislator upon request.

9 No. One, there was a concerted effort to
10 downsize the registration office, starting in 2006,
11 and the number of employees dropped from 40 to 13 as
12 people who transferred out were not replaced.

13 Workers were just thrown in when they
14 started without adequate training, instructions or a
15 manual.

16 The remaining workers are requested more
17 staff, but none were added until temporary workers
18 were brought in near the deadline from private enter
19 its not affiliated with the county.

20 The Tax Assessor himself told KHOUTV that
21 an 18-year old who was denied to vote at the polls on
22 this juror, her application was rejected due to a
23 quote, mistake by a temporary employee, unquote.

24 So yes, I do think more training.

25 REPRESENTATIVE HEFLIN: Now, do you know



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005780

TX_00031138

USA_00020662

111

1 or have knowledge of how many provisional ballots were
2 cast in Harris County?

3 DIANE TRAUTMAN: I believe it was 11,000.

4 REPRESENTATIVE HEFLIN: 11,000. And do
5 you know the ultimate treatment -- do you know or do
6 you have knowledge of how those ballots were
7 ultimately treated?

8 DIANE TRAUTMAN: One of the problems, I
9 think, is the connection.

10 And as I said earlier, problems with Voter
11 Registration relate directly to the proposed Voter ID
12 bill because these new requirements will lead to more
13 provision ballots being cast by voters who do not
14 present required ID.

15 In 2008 the counting of provisional
16 ballots was a big problem according to lifelong
17 Republican, Jim Harding, a retired business executive
18 who chaired the ballot board and who told the Houston
19 Chronicle on November 12th that the counting of
20 provisional ballots was delayed by faulty work by Tax
21 Assessor Betencort's staff.

22 The Ballot Board convened after the
23 election in there are 2,000 provisional ballots that
24 need to be checked before each is being counted but
25 the board can only accept or reject the ballot after



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_005781

TX_00031139

USA_00020663